

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

IN RE:

STATE OF MARYLAND,
MARYLAND DEPARTMENT OF
TRANSPORTATION,
MARYLAND TRANSIT
ADMINISTRATION,
Respondent.

CONSENT AGREEMENT AND FINAL ORDER

DOCKET No. CWA-03-2006-0019

DOCKET No. RCRA-03-2006-0019

Facility Addresses:

1515 Washington Boulevard
5801 Wabash Avenue
Baltimore, Maryland 21230

I. STATUTORY AUTHORITY

This Consent Agreement and the accompanying Final Order (collectively CAFO) are entered into by the Director, Office of Enforcement, Compliance and Environmental Justice, United States Environmental Protection Agency, Region III (Complainant or EPA), and the State of Maryland, (the State), Maryland Department of Transportation (MDOT) Maryland Transit Administration (MTA)(collectively the Respondent), pursuant to Sections 309(g)(2)(B) and 311(b)(6) of the Clean Water Act, (CWA), 33 U.S.C. §§ 1319(g)(2)(B) and 1321(b)(6), Sections 3008(a)(1) and 9006 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6928(a)(1) and 6991e, and in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties*, (Consolidated Rules), 40 C.F.R. Part 22.

II. PRELIMINARY STATEMENTS

1. On December 7, 2005, Complainant issued an Administrative Complaint and Notice of Opportunity for Hearing, Docket Number CWA-3-2006-0019 and RCRA-03-2006-0019. On January 4, 2006, Complainant subsequently issued an Amended Complaint which

changed a permit number in Count III of the Complaint, but did not otherwise change any of the original allegations made in the Complaint.

2. On August 24, 2006, Complainant filed a proposed Second Amended Complaint to add two counts (the Second Amended Complaint is herein referred to as "the Complaint").
3. The Complaint alleged that Respondent violated the regulations promulgated in accordance with:
 - a. Section 311(j) of the CWA, 33 U.S.C. § 1321(j);
 - b. Section 402 of the CWA, 33 U.S.C. § 1342;
 - c. RCRA Subtitles C and I, 42 U.S.C. §§ 6921-6939e, and 6991-6991i, the regulations promulgated thereunder and, the authorized State of Maryland Hazardous Waste Management Regulations (MdHWMR) set forth at the Code of Maryland Regulations ((COMAR), Title 26, Subtitles 10 and 13 *et seq.*).
4. EPA published notice of the commencement of the administrative action and the proposed penalty assessment brought under the authority of the Clean Water Act, and received no comments thereto. The notice of commencement of the administrative action was published pursuant to the Consolidated Rules on the EPA Region III website.
5. For the purposes of this CAFO, Respondent admits the jurisdictional allegations of the Complaint. Respondent expressly reserves its right to contest the jurisdictional arguments under RCRA or CWA in any other enforcement proceeding commenced against Respondent by EPA.
6. Respondent neither admits nor denies the specific factual allegations and legal conclusions contained in the Complaint or herein.
7. For purposes of this CAFO only, Respondent agrees not to contest EPA's jurisdiction to execute this Consent Agreement, the issuance of the Final Order, or the enforcement thereof.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing under Sections 3008(b) and 9006 of RCRA, 42 U.S.C. §§ 6928(b) and 6991e, and Sections 309(g) and 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. §§ 1319(g) and 1321(b)(6)(B)(ii), on any issue of law or fact in the Complaint, and waives its right to appeal the Final Order.
9. Each party to this CAFO shall pay its own costs and attorney's fees associated with this proceeding having the docket numbers of CWA-03-2006-0019 and RCRA-03-2006-0019.

changed a permit number in Count III of the Complaint, but did not otherwise change any of the original allegations made in the Complaint.

2. On August 24, 2006, Complainant filed a proposed Second Amended Complaint to add two counts (the Second Amended Complaint is herein referred to as "the Complaint").
3. The Complaint alleged that Respondent violated the regulations promulgated in accordance with:
 - a. Section 311(j) of the CWA, 33 U.S.C. § 1321(j);
 - b. Section 402 of the CWA, 33 U.S.C. § 1342;
 - c. RCRA Subtitles C and I, 42 U.S.C. §§ 6921-6939e, and 6991-6991i, the regulations promulgated thereunder and, the authorized State of Maryland Hazardous Waste Management Regulations (MdHWMR) set forth at the Code of Maryland Regulations ((COMAR), Title 26, Subtitles 10 and 13 *et seq.*).
4. EPA published notice of the commencement of the administrative action and the proposed penalty assessment brought under the authority of the Clean Water Act, and received no comments thereto. The notice of commencement of the administrative action was published pursuant to the Consolidated Rules on the EPA Region III website.
5. For the purposes of this CAFO, Respondent does not contest the jurisdictional allegations of the Complaint. Respondent expressly reserves its right to contest the jurisdictional arguments under RCRA or CWA in any other enforcement proceeding commenced against Respondent by EPA.
6. Respondent neither admits nor denies the specific factual allegations and legal conclusions contained in the Complaint or herein.
7. For purposes of this CAFO only, Respondent agrees not to contest EPA's jurisdiction to execute this Consent Agreement, the issuance of the Final Order, or the enforcement thereof.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing under Sections 3008(b) and 9006 of RCRA, 42 U.S.C. §§ 6928(b) and 6991e, and Sections 309(g) and 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. §§ 1319(g) and 1321(b)(6)(B)(ii), on any issue of law or fact in the Complaint, and waives its right to appeal the Final Order.
9. Each party to this CAFO shall pay its own costs and attorney's fees associated with this proceeding having the docket numbers of CWA-03-2006-0019 and RCRA-03-2006-0019.

10. Respondent will implement the measures contained in the Settlement Conditions Document (SCD) which is attached hereto as Appendix B and made a part hereof as if fully recited herein in order to come into compliance with all applicable Federal environmental laws and regulations at all facilities owned and/or operated by Respondent Maryland Transit Administration as listed in Appendix B.
11. The term "days" as used herein shall mean calendar days, unless otherwise specified.
12. The facilities which are subject of the Complaint are the Washington Boulevard Complex (Washington Blvd.), 1515 Washington Boulevard, Baltimore, Maryland 21230, and the Northwest Maintenance Shop-METRO (Wabash Ave.), 5801 Wabash Avenue, Baltimore, Maryland 21224. Respondent agrees that EPA may inspect all facilities owned or operated by Respondent at any reasonable time during business hours and after giving Respondent notice to determine whether Respondent's obligations under this CAFO are being implemented in conformity with the representations made herein. This right of entry is in addition to, and in no way limits, any other rights that may be available to EPA under any law or regulation.
13. Pursuant to 40 C.F.R. § 2.203, Respondent may submit a claim of confidentiality for any document or information submitted under this CAFO. Failure to make a confidentiality claim at the time the document is submitted shall constitute a waiver of such claim. Respondent shall not assert a claim of confidentiality with respect to any sampling, monitoring or analytical data.
14. Respondent consents to the issuance of this CAFO, and agrees to comply with its terms.
15. The citations to COMAR contained herein refer to the EPA authorized Maryland regulations.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

16. The Findings of Fact and Conclusions of Law as set forth in the Complaint are incorporated into this Consent Agreement as if fully set forth at length herein subject to paragraphs 5 and 6 above.

IV. CIVIL PENALTY

17. Based on the foregoing and having taken into account the penalty factors set forth at Sections 3008(a)(3) and 9006e of RCRA, 42 U.S.C. §§ 6928(a)(3) and 6991e, and the penalty factors set forth at Sections 309(g)(3) and 311(b)(8) of the CWA, 33 U.S.C. §§ 1319(g)(3) and 1321(b)(8), Complainant has determined that the total appropriate civil penalty for the violations alleged in the Complaint is \$172,207.00, which shall be paid in accordance with paragraphs 19 and 21 of this CAFO.

18. The penalty factors were applied to the particular facts and circumstances of this case with specific reference to EPA's Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act, August 1998, Interim Clean Water Act Settlement Penalty Policy, March 1, 1995, RCRA Civil Penalty Policy, June 2003, Penalty Guidance for Violations of UST Regulations, and the Civil Monetary Penalty Adjustment Rule, 40 C.F.R. Part 19.
19. RESPONDENT HEREBY CONSENTS to pay \$64,846.00 as a civil penalty in settlement of the Section 311(j) of the CWA, 33 U.S.C. § 1321(j), violations alleged in the Complaint, in one installment, which is due and payable 60 days after the effective date of this CAFO, by submitting a check, payable to "Oil Spill Liability Trust Fund-311," to:

U.S. Environmental Protection Agency
P.O. Box 371099M
Pittsburgh, PA 15251

or via overnight delivery to:

Mellon Client Service Center,
ATTN: Shift Supervisor
Lockbox 371099M Account 9109125
500 Ross Street,
Pittsburgh, PA 15262-0001

20. Failure by Respondent to pay the penalty assessed in paragraph 19 by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs for collection proceedings and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the CWA, 33 U.S.C. § 1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.
21. RESPONDENT HEREBY CONSENTS to pay \$107,361.00 as a civil penalty, in settlement of the Section 402 of the CWA, 33 U.S.C. § 1342, and RCRA violations alleged in the Complaint, in one installment, which is due and payable (60) sixty days after the effective date of this CAFO by submitting a check payable to the "Treasurer, United States of America" via regular mail to:

U.S. Environmental Protection Agency
Regional Hearing Clerk
P.O. Box 371099M
Pittsburgh, PA 15251

or via overnight delivery to:

Mellon Client Service Center,
ATTN: Shift Supervisor

Lockbox 371099M Account 9109125
500 Ross Street,
Pittsburgh, PA 15262-0001

22. Respondent shall note on the instrument of each payment the title and docket numbers of this case. Respondent shall send notice of each payment, along with a copy of the instrument of each payment, to:

Lydia Guy (3RC00)
Regional Hearing Clerk
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

-and-

Joyce A. Howell (3EC00)
Sr. Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

23. The following notice concerns interest and late penalty charges that will accrue in the event that any portion of the civil penalty set forth in paragraph 21 is not paid as directed:

- a. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest on outstanding debts owed to the United States as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this Consent Agreement and Final Order shall result in the assessment of interest.
- b. Interest on the civil penalty assessed in paragraph 21 of this CAFO will begin to accrue on the Effective Date of this CAFO as defined in paragraph 65, below. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within sixty (60) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

V. COMPLIANCE ORDER

24. Pursuant to the authority of Sections 3008(a) and 9006 of RCRA, 42 U.S.C. §§ 6928(a) and 6991e, Respondent is hereby ordered to perform the Compliance Tasks listed in paragraphs 25 through 35 below. Within ninety (90) days after the Effective Date of this CAFO, as defined in paragraph 65 of this CAFO, Respondent shall certify to the completion of each of the Compliance Tasks set forth in paragraphs 25 through 35 below. If Respondent completes a Compliance Task prior to the Effective Date of this CAFO, Respondent shall certify completion of such Compliance Task in accordance with paragraph 36 below.
25. Prepare a written contingency plan for the Washington Blvd. Facility which is designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water as specified in COMAR 26.13.05.04 and 40 C.F.R. §§ 262.34(a)(4) and 265.51. Submit the contingency plan to EPA for review and comment

within thirty (30) days of the Effective Date of this Consent Agreement. Implement the contingency plan within ten (10) days of MTA's receipt of written notice of EPA's review and acknowledgement of completion of the contingency plan.

26. Conduct weekly inspections at the Washington Blvd. and Wabash Ave. Facilities in the areas in which the hazardous waste containers are stored, as required by COMAR 26.13.03.05E(1)(g) and maintain an inspection log, as required by COMAR 26.13.03.05E(1)(k).
27. Within thirty (30) days of the Effective Date of this CAFO, develop and implement a training program, as required by COMAR 26.13.03.05E(1)(g), for the Washington Blvd. Facility.
28. Within thirty (30) days of the Effective Date of this CAFO, develop and implement, at the Washington Blvd. and Wabash Ave. Facilities, a system for tracking manifests to comply with the exception reporting requirements of COMAR 26.13.03.06A(3) and a filing system to ensure compliance with COMAR 26.13.03.06A(1) and 40 C.F.R. § 262.40.
29. Within thirty (30) days of the Effective Date of this CAFO, provide cathodic protection for the metal underground storage tanks and piping that is in contact with the ground, consistent with the requirements of COMAR 26.10.03.02 and 40 C.F.R. § 280.21(c), with regard to the federally-regulated USTs that will remain in service after the Effective Date of this CAFO at the Washington Blvd. Facility.
30. Within thirty (30) days of the Effective Date of this CAFO, provide overfill protection, consistent with the requirements of COMAR 26.10.03.01D and 40 C.F.R. § 280.21(d), with regard to the federally-regulated USTs that will remain in service after the Effective Date of this CAFO at the Washington Blvd. Facility.
31. Within thirty (30) days of the Effective Date of this CAFO, comply with the installation standards for underground storage tanks, consistent with COMAR 26.10.03.01E and 40 C.F.R. § 280.20(d), with regard to the federally-regulated USTs that will remain in service after the Effective Date of this CAFO at the Washington Blvd. Facility.
32. Within thirty (30) days of the Effective Date of this CAFO, comply with the release detection requirements of COMAR 26.10.05.01, specifically, release detection that can detect a release from any portion of the tank and the connected underground piping that routinely contains product, with regard to the federally-regulated USTs that will remain in service after the Effective Date of this CAFO at the Washington Blvd. Facility.
33. Within thirty (30) days of the Effective Date of this CAFO, employ methods of release detection for piping consistent with COMAR 26.10.05.05A, with regard to the federally-regulated USTs that will remain in service after the Effective Date of this CAFO at the Washington Blvd. Facility.

34. Within thirty (30) days of the Effective Date of this CAFO: (1) cease storing hazardous waste at the Washington Boulevard Facility except in accordance with a permit or interim status obtained pursuant to RCRA Section 3005, 42 U.S.C. § 6925, COMAR 26.13.03.05E(1) and 40 C.F.R. Part 270 or in accordance with the generator accumulation exemption of 40 C.F.R. § 262.34, including, but not limited to the requirements of 40 C.F.R. § 265.173, including the satellite accumulation rules of COMAR 26.13.03.05E (3) and 40 C.F.R. § 262.34c(1); (2) Mark containers of hazardous waste clearly and visibly with their accumulation commencement dates in compliance with 40 C.F.R. § 262.34(a)(2) and COMAR 26.13.03.05E(1)(e); and (3) ensure each container of hazardous waste at the Washington Blvd. facility is properly labeled and marked according to COMAR 26.13.03.05.B and C.
35. Within sixty (60) days of the Effective Date of this CAFO, remove or permanently close the diesel fuel USTs at the Washington Blvd. Facility and all federally-regulated USTs at the Wabash Ave. Facility in accordance with the requirements of COMAR 26.10.10 et seq.
36. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Compliance Order which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirements of this Compliance Order shall be certified by the appropriate government official as defined by 40 C.F.R. § 270.11(a)(3) for Respondent.

The certification of the appropriate government official required above shall be in the following form:

I certify that, based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information contained in or accompanying this [type of submission] is true, accurate and complete to the best of my knowledge, information and belief. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: _____
Name: _____
Title: _____

After receipt of a Certification made pursuant to CAFO, EPA will issue a letter to the Respondent's representatives listed in paragraph 37 acknowledging receipt of Respondent's certification of compliance with the regulatory requirements as of the date of the certification.

37. Any notification or submission required by this Compliance Order to be submitted to either party, including, but not limited to, the aforementioned certification, shall be sent via certified mail/return receipt requested or overnight mail commercial delivery service to the attention of the following persons:

For EPA:

Troy Jordan (3EC10)
Office of Enforcement, Compliance and Environmental Justice
United States Environmental Protection Agency - Region III
Suite 304
1060 Chapline St
Wheeling, WV 26003

-and-

Joyce Howell (3EC00) [Cover letter only]
Senior Counsel
Office of Enforcement, Compliance and Environmental Justice
United States Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

For Respondent:

Secretary Robert L. Flanagan
Maryland Department of Transportation
7201 Corporate Center Drive
Hanover, MD 21076

-and-

Deputy Secretary James F. Ports, Jr.
Maryland Department of Transportation
7201 Corporate Center Drive
Hanover, MD 21076

-and-

Denise Ferguson, Principal Counsel
Attorney General's Office
Maryland Department of Transportation
7201 Corporate Drive
Hanover, MD 21076

-and-

Lisa L. Dickerson, MTA Administrator
Maryland Transit Administration
6 St. Paul Street 26th Floor
Baltimore, MD 21202

-and-

R. Earl Lewis, Jr., Deputy Administrator Operations
Maryland Transit Administration
1515 Washington Boulevard
Baltimore, MD 21230

-and-

Ronald Keele, Director Office of Safety and Risk Management
Maryland Transit Administration
1515 Washington Boulevard
Baltimore, MD 21230

-and-

Callista M. Freedman, General Counsel
Maryland Transit Administration
6 St. Paul Street, 12th Floor
Baltimore, MD 21202

PARAGRAPH 38 IS OMITTED

39. Either party may substitute another person to receive notice on its behalf, or change the address to which notices are to be sent, by sending written notification of the substitution or change to the other party.

VI. SUPPLEMENTAL ENVIRONMENTAL PROJECT

40. Respondent shall fully perform a supplemental environmental project ("SEP"), which the parties agree is intended to secure significant environmental or public health protection and improvements. A description of the SEP is attached as Appendix A to this CAFO and made a part hereof. Respondent shall commence work on the SEP within thirty (30) days of the Effective Date of the CAFO.
41. The total expenditure for the SEP shall be not less than \$516,620.00, in accordance with the specifications set forth in Appendix A.
42. Respondent hereby certifies that, as of the Date of this CAFO, Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement, grant or as injunctive

Lisa L. Dickerson, MTA Administrator
Maryland Transit Administration
6 St. Paul Street 26th Floor
Baltimore, MD 21202

-and-

R. Earl Lewis, Jr., Deputy Administrator Operations
Maryland Transit Administration
1515 Washington Boulevard
Baltimore, MD 21230

-and-

Ronald Keele, Director Office of Safety and Risk Management
Maryland Transit Administration
1515 Washington Boulevard
Baltimore, MD 21230

-and-

Callista M. Freedman, General Counsel
Maryland Transit Administration
6 St. Paul Street, 12th Floor
Baltimore, MD 21202

PARAGRAPH 38 IS RESERVED

39. Either party may substitute another person to receive notice on its behalf, or change the address to which notices are to be sent, by sending written notification of the substitution or change to the other party.

VI. SUPPLEMENTAL ENVIRONMENTAL PROJECT

40. Respondent shall fully perform a supplemental environmental project ("SEP"), which the parties agree is intended to secure significant environmental or public health protection and improvements. A description of the SEP is attached as Appendix A to this CAFO and made a part hereof. Respondent shall commence work on the SEP within thirty (30) days of the Effective Date of the CAFO.
41. The total expenditure for the SEP shall be not less than \$516,620.00, in accordance with the specifications set forth in Appendix A.
42. Respondent hereby certifies that, as of the Date of this CAFO, Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement, grant or as injunctive

relief in this or any other legal proceeding or in compliance with state or local requirements.

43. Respondent shall submit a SEP Completion Report to EPA by June 30, 2009. The SEP Completion Report shall contain the following information:
- (i) A detailed description of the SEP as implemented;
 - (ii) A description of any operating problems encountered and the solutions thereto;
 - (iii) Itemized costs, documented by copies of purchase orders and receipts or canceled checks;
 - (iv) Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO; and
 - (v) A description of the environmental and public health benefits resulting from implementation of the SEP.
44. Respondent shall submit quarterly reports ("Periodic SEP Report") on its progress in completing the SEP beginning with the first full calendar quarter following the Effective Date of this CAFO. EPA must receive such quarterly reports for the immediate preceding quarter by no later than the following dates: May 1st, August 1st, November 1st and February 1st.
45. Respondent agrees that failure to submit the SEP Completion Report or any Periodic Report required by paragraphs 43 and 44 above shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to paragraph 50(v) below.
46. Respondent shall maintain legible copies of documentation of the underlying research and data for any and all reports submitted to EPA pursuant to this CAFO, and Respondent shall provide the documentation of any such underlying research and data to EPA within fifteen days of a request for such information. In all documents or reports, including, without limitation, the SEP Completion Report, and the Periodic SEP Report, that are submitted to EPA pursuant to this CAFO, Respondent shall, by the appropriate government official as defined in paragraph 36, sign and certify under penalty of law that the information contained in such documents or reports is true, accurate, and not misleading. The certification shall be as follows:

I certify that, based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information contained in or accompanying this [type of submission] is true, accurate and complete to the best of my knowledge, information and belief. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify

[its/their] accuracy, I certify to the best of my knowledge, information and belief under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system or process designed to assure that qualified personnel properly gathered and evaluated the information submitted. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: _____
Name: _____
Title: _____

47. Following receipt of the SEP Completion Report described in paragraph 43 above, EPA will do one of the following: (i) accept the SEP Completion Report; or (ii) reject the SEP Completion Report and seek stipulated penalties in accordance with paragraph 50 or (iii) notify the Respondent in writing, of deficiencies in the SEP Completion Report and grant Respondent an additional thirty (30) days in which to correct any deficiencies. A proposed rejection of the SEP Completion Report must be based solely upon alleged lack of performance, alleged lack of implementation of the SEP and/or alleged failure to comply with any of the requirements of paragraphs 40, 43, 44, and 50, except as provided in paragraph 50(ii). Respondent may appeal the rejection of the SEP report to the Deputy Regional Administrator, U.S. Environmental Protection Agency, Region III (DRA) within ten days of notice of the rejection of the SEP report by EPA. EPA will be afforded the opportunity to submit a response to Respondent's appeal within ten (10) days of Respondent's appeal. The DRA will make every effort to render a decision within forty (40) days of Respondent's service of the appeal. The decision of the DRA shall be final and binding on the parties.
48. If EPA elects to exercise option (ii) in paragraph 47 above, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency or disapproval given pursuant to this paragraph within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision to Respondent, which decision shall be final and binding upon Respondent unless Respondent elects to appeal the decision to the Deputy Regional Administrator, as provided by paragraph 47, except as provided in paragraph 49. Respondent agrees to comply with any requirements imposed by EPA to correct such deficiency or failure, as set out in the written notification of deficiency or disapproval, to comply with the terms of the SEP as set out in Appendix A. In the event the SEP is not completed as contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with paragraph 50 herein.

49. In the event that the SEP is not completed as contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Section VII of this CAFO.

VII. STIPULATED PENALTIES

50. In the event that Respondent fails to comply with any of the terms or provisions of this CAFO relating to the performance of the SEP described in Appendix A and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in Appendix A, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- (i) Except as provided in subparagraph (ii) immediately below, for a SEP which has not been completed satisfactorily pursuant to paragraphs 40, 41 and 42, Respondent shall pay a stipulated penalty to the United States in the amount of \$556,346.00.
- (ii) If the SEP is not completed satisfactorily, but the Respondent has: a) made good faith and timely efforts to complete the project; and b) certifies, with supporting documentation, that at least ninety percent (90%) of the amount of money which was required to be spent was expended on the SEP, Respondent shall not pay any stipulated penalty.
- (iii) If the SEP is satisfactorily completed, but the Respondent spent less than ninety percent (90%) of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to the United States in the amount of \$55,634.00.
- (iv) If the SEP is satisfactorily completed, and the Respondent spent at least 90 percent of the amount of money required to be spent for the project, Respondent shall not pay any stipulated penalty.
- (v) For failure to submit the SEP Completion Report required by paragraph 43 above, Respondent shall pay a stipulated penalty in accordance with the schedule below for each day after June 30, 2009 for which the SEP Completion Report is not submitted:

<u>Period of Noncompliance</u>	<u>Penalty per Day</u>
1 st through 7 th Day	\$100.00
8 th through 14 th Day	\$150.00
After 14 Days	\$500.00

- (vi) For failure to submit any other report required by paragraph 44 above, Respondent shall pay a stipulated penalty in accordance with the schedule below for each day after the report was originally due until the report is submitted.

<u>Period of Noncompliance</u>	<u>Penalty per Day</u>
1 st through 7 th Day	\$50.00
8 th through 14 th Day	\$75.00
After 14 Days	\$100.00

51. Stipulated penalties for subparagraphs 50(v) and 50(vi) above shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of completion of the activity.
52. Respondent shall pay stipulated penalties within thirty (30) days of receipt of written demand by EPA for such penalties. Stipulated penalties shall be paid in accordance with provisions of paragraph 21 above. Interest shall be paid as stated in paragraph 23 above.
53. If any event occurs which causes or may cause delays in the completion of the SEP as required under this CAFO, Respondent shall notify Complainant in writing within ten (10) days of the delay or Respondent's knowledge of the anticipated length of delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitute a waiver of Respondent's right to request an extension of its obligation under this CAFO based on such incident.
54. If the parties agree that the delay or anticipated delay in compliance with this CAFO has been or will be caused by circumstances entirely beyond the control of Respondent the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.
55. In the event that the EPA does not agree that a delay in achieving compliance with the requirements of the SEP has been or will be caused by circumstances beyond the control of Respondent, EPA will notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused. Stipulated penalties begin to accrue upon failure of performance. Respondent may appeal EPA's decision in accordance with the procedure set forth in paragraph 47 of this CAFO.
56. The burden of proving that any delay is caused by circumstances entirely beyond the control of the Respondent shall rest with Respondent. Increased costs or expenses associated with the implementation of actions called for by this CAFO shall not, in any event, be a basis for changes in this CAFO or extensions of time under paragraph 53. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

57. In any public statement referring to this SEP, Respondent shall include language that the SEP was undertaken in connection with a settlement of an enforcement action taken by EPA. This paragraph does not compel Respondent to make any public statement concerning the implementation of the SEP.

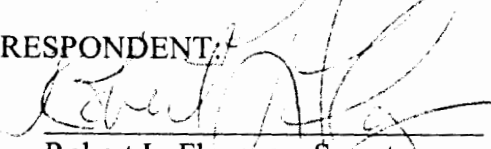
VIII. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

58. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law and/or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.
59. Full payment of the civil penalty set forth in paragraphs 19 and 21 of this Consent Agreement, above, shall constitute full and final satisfaction for Respondent's liability for all federal civil penalties for the specific violations alleged in the Complaint. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This CAFO is not intended, and shall not be construed, to resolve any claim for criminal sanctions now pending or that may be sought in the future, and shall not limit the right of the United States to pursue criminal sanctions for any violation of law. In addition, Complainant reserves any rights and remedies available to it under the CWA and RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.
60. EPA shall have the right to institute new and separate actions to recover civil penalties for the violations alleged herein if EPA obtains evidence that the information provided and/or representations made by Respondent to EPA regarding the matters at issue in this CAFO are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action, civil or criminal, EPA may have under law or equity in such event.
61. Subject to the provisions of paragraphs 5 through 8 above, Respondent shall have the right to assert any and all appropriate defenses to any subsequent actions filed by EPA pursuant to paragraph 60, including, but not limited to, jurisdiction.
62. This CAFO shall apply to and be binding upon the parties hereto, their officers, directors, employees, agents, successors and assigns.
63. The undersigned representatives of Respondent certify that s/he is fully authorized by Respondent to enter into the terms and conditions of this CAFO and to execute and legally bind Respondent to it, after obtaining the approval of the Maryland Board of Public Works. Respondent's expenditures are subject to appropriations. If appropriated funds are not available to fulfill all of Respondent's obligations, Respondent shall seek additional funding as soon as possible, but no later than the subsequent annual budgetary process.

Failure to obtain appropriations does not excuse MTA's obligation of performance under applicable laws. The approval of the Maryland Board of Public Works is indicated by Appendix C to this CAFO.

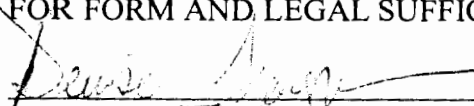
64. All of the terms and conditions of this CAFO together comprise one agreement, and each of the terms and conditions is in consideration of all of the other terms and conditions. In the event that this CAFO or one or more of its terms and conditions is held invalid, or is not executed by all of the signatories in identical form, or is not approved in such identical form by the Regional Administrator or his or her designee, then the entire CAFO shall be null and void.
65. The Effective Date of this CAFO is 30 days after the date on which the Final Order is filed with the Regional Hearing Clerk.

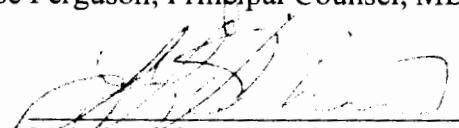
For RESPONDENT:

By: 
Robert L. Flanagan, Secretary
Maryland Department of Transportation

Date: 12/12/00

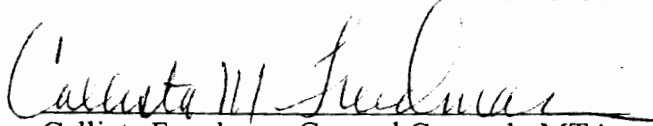
FOR FORM AND LEGAL SUFFICIENCY:


Denise Ferguson, Principal Counsel, MDOT

By: 
Lisa L. Dickerson, Administrator
Maryland Transit Administration

Date: 12/14/00

FOR FORM AND LEGAL SUFFICIENCY:

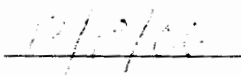

Callista Freedman, General Counsel, MTA

For COMPLAINANT:

By:

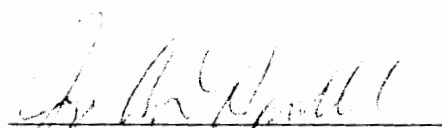


Date:

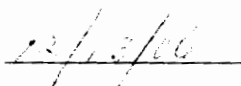


Samantha Phillips Beers, Director
Office of Enforcement, Compliance
and Environmental Justice
U.S. Environmental Protection Agency, Region III

By:



Date:



Joyce A. Howell
Senior Counsel
Office of Enforcement, Compliance
and Environmental Justice
U.S. Environmental Protection Agency, Region III

**THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

IN RE:

STATE OF MARYLAND,
MARYLAND DEPARTMENT OF
TRANSPORTATION,
MARYLAND TRANSIT
ADMINISTRATION
Respondent.

DOCKET No. CWA-03-2006-0019
RCRA-03-2006-0019

Facility Addresses:

1515 Washington Boulevard
5801 Wabash Avenue
Baltimore, Maryland 21230

FINAL ORDER

Complainant, the Director of the Office of Enforcement, Compliance and Environmental Justice, U.S. Environmental Protection Agency, Region III, and Respondent, State of Maryland, Maryland Department of Transportation, Maryland Transit Administration have executed a document entitled "Consent Agreement," which I hereby ratify in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, PURSUANT TO the Consolidated Rules of Practice, and having determined that the penalty agreed to in the Consent Agreement is based on a consideration of

the factors set forth in Sections 309(g)(b) and 311(b)(6) of the Clean Water Act (CWA) §§ 1319(g)(b) and Sections 3008(a)(1) and 9006 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6928(a)(1) and 6991e, it is hereby ordered that Respondent pay \$172,207.00 in accordance with the Consent Agreement and comply with the terms and conditions of this Consent Agreement.

The effective date of this Final Order is thirty days after filing with the Regional Hearing Clerk.

12/28/06
Date

Renée Sarajian
Renée Sarajian
Regional Judicial Officer

APPENDIX A
(SUPPLEMENTAL ENVIRONMENTAL PROJECT DESCRIPTION)

APPENDIX B
(SETTLEMENT CONDITIONS DOCUMENT)

APPENDIX B

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III**

**1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:)	
)	
State of Maryland, Maryland)	U.S. EPA Docket Numbers
Department of Transportation,)	RCRA-03-2006-0019
Maryland Transit Administration)	CWA-03-2006-0019
)	
Respondent,)	
)	
MTA Facility No. 1)	
Washington Boulevard Complex)	
(Washington Blvd.))	
1515 Washington Blvd.)	
Baltimore, Maryland 21230)	
)	
MTA Facility No. 2)	
Northwest Maintenance Shop-METRO)	
(Wabash Ave.))	
5801 Wabash Ave.)	
Baltimore, Maryland 21224)	
)	
MTA Facility No. 3)	
Kirk Bus Division)	
2226 Kirk Ave.)	
Baltimore, Maryland 21217)	
)	
MTA Facility No.4)	
Eastern Bus Division)	
201 Oldham St.)	
Baltimore, Maryland 21224)	
)	
MTA Facility No. 5)	
Northwest Bus Division)	
4401 Mt. Hope Dr.)	
Baltimore, Maryland 21224)	
)	
MTA Facility No. 6)	
North Avenue Light Rail Maintenance)	
349 W. North Ave.)	
Baltimore, Maryland 21217)	

)
MTA Facility No. 7)
Cromwell Light Rail Maintenance)
7378 Baltimore-Annapolis Blvd.)
Glen Burnie, Maryland 21061)
)
MTA Facility No. 8)
MARC Storage-Frederick County)
7900 Reich Ford Rd.)
Frederick, Maryland 21704)
)
MTA Facility No. 9)
MARC Maintenance-Martins\Middle River)
2700 Eastern Blvd.)
Middle River, Maryland 21220)
)
MTA Facility No. 10)
Old Court Maintenance Shop-METRO)
4300 Old Court Rd.)
Pikesville, Maryland 21208)
)
MTA Facility No. 11)
Brunswick MARC Maintenance Bldg.)
100 South Maple Ave.)
Brunswick, Maryland 21716)
)
MTA Facility No. 12)
Federalburg Maintenance Yard)
106 Railroad Ave.)
Federalburg, Maryland 21632.)
)

SETTLEMENT CONDITIONS DOCUMENT

I. INTRODUCTION

1. This Settlement Conditions Document (SCD) is part of and incorporated into the attached Consent Agreement and Final Order (CAFO) by and between the U.S. Environmental Protection Agency - Region III (Agency or EPA) and the State of Maryland, Maryland Department of Transportation (MDOT), Maryland Transit Administration (MTA) in the above-captioned administrative enforcement action. The CAFO together with this SCD resolves violations of

Section 311(j) of the CWA, 33 U.S.C. § 1321(j); Section 402 of the CWA, 33 U.S.C. § 1342; RCRA Subtitles C and I, 42 U.S.C. §§ 6921-6939e, and 6991-6991i, the regulations promulgated thereunder and the authorized State of Maryland Hazardous Waste Management Regulations (MdHWMR) set forth at the Code of Maryland Regulations (COMAR), Title 26, Subtitles 10 and 13 et seq.) at MTA's facilities located at 1515 Washington Boulevard and 5801 Wabash Avenue, Baltimore, Maryland. The purpose of this document is to set forth the terms, conditions and tasks MTA will undertake in implementing a Multi-Facility, Multi-Media Compliance Audit (Audit) which MTA has agreed to perform as part of the settlement of the above-captioned matter.

2. MTA agrees to come into compliance with federal and state environmental statutory and regulatory requirements.
3. MTA agrees to use the EPA Audit Protocols to evaluate compliance with the statutory and regulatory requirements set forth in paragraph 5. For the Clean Air Act, MTA will use the Maryland Part 70 Operating Permit Initial Application referenced in Appendix D.

II. SETTLEMENT CONDITIONS

A. THE MULTI-MEDIA, MULTI-FACILITY COMPLIANCE AUDIT

4. The Audit described herein is intended and designed, *inter alia*, to advance the protection of human health and the environment, a stated goal of the Clean Water Act (CWA) and the Resource Conservation and Recovery Act (RCRA).

5. The Audit must cover all statutory and regulatory requirements listed below, unless otherwise limited by paragraph 6:

- a. Clean Air Act: Standards of Performance for New Stationary Sources (40 C.F.R. Part 60); National Emission Standards for Hazardous Air Pollutants (40 C.F.R. Part 61); National Emission Standards for Hazardous Air Pollutants for Source Categories (40 C.F.R. Part 63); Chemical Accident Prevention Provisions (40 C.F.R. Part 68); Title V Permits (40 C.F.R. Part 70); Mobile Sources, (40 C.F.R. Part 85), Protection of Stratospheric Ozone (40 C.F.R. Part 82); Maryland State Implementation Plan, including New Source Review Regulations (40 C.F.R. 52.1070 (Subpart V), COMAR 26.11.01 et seq.
- b. Clean Water Act: Spill Prevention, Control, and Countermeasures (40 C.F.R. Part 112); The National Pollutant Discharge Elimination System Permits including storm water management (40 C.F.R. Part 122); General Pretreatment Regulations (40 C.F.R. Part 403).
- c. Safe Drinking Water Act: National Primary and Secondary Drinking Water Regulations (40 C.F.R. Parts 141 and 143).
- d. Federal Insecticide, Fungicide and Rodenticide Act: Worker Protection Standard (40 C.F.R. Part 170); Experimental Use Permits (40 C.F.R. Part 172).

e. Resource Conservation and Recovery Act: The provisions of Maryland's hazardous waste management program, set forth at COMAR Title 26 Subtitle 13 et seq. and the provisions of Maryland's Underground Storage Tank program, set forth at COMAR Title 256 Subtitle 10 et seq. (Hazardous Waste Management System, Used Oil Handling, Underground Storage Tanks (40 C.F.R. Parts 260-266, 268, 273, 279, 280).

f. Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and Emergency Planning, and Community Right-to-Know Act (EPCRA): Designation, Reportable Quantities, and Notification (40 C.F.R. Part 302); Emergency Planning and Notification (40 C.F.R. Part 355); Hazardous Chemical Reporting: Community Right-to-Know (40 C.F.R. Part 370); Toxic Chemical Release Reporting: Community Right-to-Know (40 C.F.R. Part 372).

g. Toxic Substances Control Act (TSCA): Lead-Based Paint Poisoning Prevention (40 C.F.R. Part 745); Polychlorinated Biphenyls ("PCBs") Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; (40 C.F.R. Part 761); Asbestos (40 C.F.R. Part 763).

6. MTA agrees to perform an Audit of all of its facilities listed below:

MTA Facility No. 1

Washington Blvd. Complex (Washington Blvd.) (TSCA, CERCLA, EPCRA only)

MTA Facility No. 2

Northwest Maintenance Shop-METRO (Wabash Ave.) (TSCA, CERCLA, EPCRA only)

MTA Facility No. 3

Kirk Bus Division

MTA Facility No. 4

Eastern Bus Division

MTA Facility No. 5

Northwest Bus Division

MTA Facility No. 6

North Avenue Light Rail Maintenance

MTA Facility No. 7
Cromwell Light Rail Maintenance

MTA Facility No. 8
MARC Storage-Frederick County

MTA Facility No. 9
MARC Maintenance-Martins\Middle River

MTA Facility No. 10
Old Court Maintenance Shop-METRO

MTA Facility No. 11
Brunswick MARC Maintenance Bldg.

MTA Facility No. 12
Federalsburg Maintenance Yard

B. DESCRIPTION OF THE AUDIT

7. MTA shall retain an independent third party (the Auditor) to perform the Audit of each of MTA's facilities listed in Section II, above.

8. At a minimum, the Auditor selected by MTA for performance of the Audit shall:

a. have a bachelor's degree and no less than 3 years experience in performing compliance audits for the environmental statutes and regulations listed in Section II, above;

b. have a trained and experienced staff for the performance of such audits;

c. will not perform any Audit activities with regard to prior work subject to the Audit activities identified in paragraphs 9-10, performed for MTA; and

d. not have any conflict of interest that will compromise, in any way, the performance of the Audits required by this SCD. MTA, through the Maryland regulations governing procurement, Code of Maryland Regulations, Title 21, will determine whether any

potential Auditor has a conflict of interest that will disqualify that party from performing the Audits required by this SCD.

C. THE AUDIT PLAN

9. MTA shall create an Audit Plan that satisfies the statutory and regulatory requirements provided in paragraph 5. The Audit Plan will satisfy the requirements under this SCD and include: (a) a projected schedule; (b) milestones for performance; and (c) a detailed description of all tools to be used during the Audit.

10. In addition, the Audit Plan will provide for:

- a. a compliance audit of the facilities listed in paragraph 6 of this SCD;
- b. Quarterly Audit Reports in accordance with Section III;
- c. a schedule identifying the facilities that will be audited in each Quarter of the projected Audit period; and
- d. a Final Audit Report in accordance with paragraphs 19-21.

11. The Parties acknowledge that MTA provided its draft RFP outlining the scope of work for the audits to EPA for review and comments prior to MTA procuring the Auditor(s) so that EPA may ensure that the Auditor(s) selected will meet the qualifications set forth in paragraph 8 of this SCD.

12. MTA shall provide EPA with its Audit Plan, name and address of the Auditor(s) MTA has selected to conduct the Audit at MTA's Facilities, documentation that such Auditor(s) satisfies the requirements of paragraphs 7 and 8 of this SCD and a copy of the contract(s) entered into by MTA with the Auditor(s) within thirty (30) days of issuing the notice to proceed by

March 15, 2007, but no later than June 15, 2007, with every effort to award by the earliest possible date.

13. Upon completion of a review by EPA of the Audit Plan, EPA, in its sole discretion, shall either: (a) notify MTA in writing of EPA's acceptance of the Audit Plan as proposed by MTA, or (b) notify MTA in writing of EPA's non-acceptance. If EPA rejects any portion or all of the Audit Plan, EPA shall state the reasons for such rejection and shall provide to MTA in writing a reasonable time in which to make a new submittal. If the MTA fails to revise and re-submit any or all of the items raised by EPA within thirty (30) days, unless otherwise agreed upon by the Parties, after receipt of EPA's non-acceptance of the Audit Plan, EPA shall have the right to terminate this SCD by providing written notice to MTA and EPA shall have the right to seek and collect the maximum penalty allowed by law for any and all violations of federal environmental law at any of MTA's facilities. If EPA's non-acceptance of MTA's submission(s) requires MTA to repeat a procurement, then the timetable for re-submission will be adjusted by the time required by MTA to perform a new procurement.

D. THE AUDIT

14. MTA shall begin the Audit within seven business days from EPA's written acceptance of the Audit Plan.

15. Starting from the day that MTA begins the Audit pursuant to paragraph 14 above, MTA shall have 365 calendar days to complete the Audit under this SCD.

16. The scope of the audit for each facility shall cover the period beginning December 7, 2004 through the completion of the audit. The completion date of the audit for each facility does not include the corrective measures for Areas of Non-Compliance (AONs) described as Part III of this SCD.

17. MTA shall fully cooperate with requests made by the Auditor concerning performance of the Audit and preparation of the Quarterly Audit Reports and the Final Audit Report referenced in Section III of this SCD.

E. CORRECTIVE MEASURES

18. MTA shall immediately initiate any and all measures necessary to correct any AON and remediate any harm caused or threatened by such AON discovered during the course of the performance of the Audit, and institute effective measures to ensure that any such AON does not reoccur in the future. Nothing in this SCD shall relieve MTA of any obligation imposed by any applicable federal, state and/or local laws and requirements.

III. REPORTS, DOCUMENTATION AND NOTIFICATION

A. QUARTERLY AUDIT REPORTS

19. Beginning with the first full calendar quarter following the Effective Date of the CAFO MTA shall submit to EPA Quarterly Audit Reports regarding its performance of the Audit as proposed in the Audit Plan and Schedule described in Section II, above. Thereafter, EPA must receive quarterly reports for the immediate preceding quarter by no later than the following dates: May 1, August 1, November 1, and February 1. The Final Audit Report shall be subject to the additional requirements set forth in paragraph 21. The Final Audit Report will be submitted no later than sixty (60) days after the completion of the Final Audit.

20. Each Quarterly Audit Report, including the Final Audit Report, submitted to EPA shall be the original Audit report submitted by the Auditor, and contain the following information:

- a. the name and address of each Facility audited by the Auditor during the quarter;
- b. a description of the information reviewed by the Auditor to perform the Audit to satisfy the requirements of paragraph 5;

- c. a statement indicating whether any AON were discovered during the Audit;
- d. a detailed description of each AON found at each Facility, including the days of noncompliance with the regulatory requirement;
- e. a description of any actions taken by MTA to correct any such AON, to remediate any harm caused or threatened by such AON and/or to prevent the reoccurrence of such AON at such Facility;
- f. a description of any problems or difficulties, if any, in performing the Audit, and the measures taken to address such problems or difficulties at each Facility; and
- g. documentation demonstrating the Auditor's utilization of the EPA Audit Protocols and the Maryland Part 70 Operating Permit Initial Application used in the Audit during the quarter being reported (Appendix D) executed by the Auditor and certified as true and accurate by the Auditor.

21. The Final Audit Report shall contain the following additional information:

- a. A detailed description of the Audit as implemented describing how the Audit has fulfilled all of the requirements described herein;
- b. A description of any operating problems encountered by the Auditor and the solutions provided by MTA to address such problems; and
- c. A certification by the Auditor that the Audit has been fully completed in accordance with the relevant provisions of this SCD, and

d. A description of the environmental and public health benefits resulting from the implementation of the Audit.

B. REPORTING AREAS OF NONCOMPLIANCE, REMEDIATION PLANS, REQUESTS FOR ADDITIONAL TIME

22. MTA shall, for any environmental AON which is not subject to paragraph 30 and cannot be corrected within sixty (60) days, submit a written request, as soon as practicable, to EPA for additional time to correct the AON, specifying the amount of additional time requested to correct the AON and an explanation why the AON cannot be corrected within sixty (60) days.

C. EPA REVIEW OF AUDIT ACTIVITIES

23. Upon completion of a review by EPA of each Quarterly Audit Report and the Final Audit Report, EPA shall, in its sole discretion, either (a) notify MTA in writing of EPA's acceptance of each Quarterly Audit Report and the Final Audit Report, or (b) notify MTA in writing EPA does not accept all or any part of such Quarterly Audit Report and the Final Audit Report. If EPA does not accept all or any part of MTA's proposed Quarterly Audit Report and/or the Final Audit Report, EPA shall state the reasons for such non-acceptance in writing. MTA will make a new submission within thirty (30) days of receipt of EPA's written response. In the event that MTA fails to revise and re-submit any or all of the items addressed in EPA's notice of non-acceptance for either a Quarterly Audit Report or the Final Audit Report within the deadline provided by EPA in such notice, EPA shall have the right to investigate any and all of MTA's facilities that were not properly addressed in such Quarterly Audit Report and/or the Final Audit Report and to seek and collect the maximum civil penalty allowed by law for any and all AONs at any such facility.

24. For each report and remediation plan that is submitted by MTA under Section III of the SCD, EPA shall:

- a. notify MTA in writing that it has accepted its report and remediation plan; or
- b. notify MTA in writing that EPA is not accepting the report and remediation plan;

MTA will submit a new report and remediation plan within thirty (30) days.

D. RECORD RETENTION

25. MTA shall maintain legible copies for inspection and/or a request for documentation by EPA of the following:

- a. any and all underlying research and data provided to the Auditor that formed the basis of the determination for each Quarterly Audit Report for a period of three (3) years from the date of submission to EPA of the Final Audit Report;
- b. each EPA inspection Checklist and/or Audit Protocol, as applicable, for a period of three (3) years from the date of submission to EPA of the Final Audit Report; and
- c. the original records pertaining to the actual implementation and/or performance of the Audit for a period of three (3) years from the date of acceptance of the Final Audit Report pursuant to paragraph 23.

26. MTA shall provide the documentation of any of the above upon a request by EPA within fifteen (15) calendar days of receipt of a written request for such information by EPA. MTA shall provide the documentation of any of the above as part of an EPA inspection pursuant to paragraph 12 of the CAFO.

E. NOTIFICATION OF CONTACTS

27. Except as otherwise specified herein, whenever this SCD requires notice or submission of reports, information, or documents, such notice or submission shall be provided to the person identified in paragraph 37 of the CAFO.

IV. DELAY IN PERFORMANCE/FAILURE TO COMPLETE SATISFACTORILY THE QUARTERLY AUDIT REPORTS OR FINAL AUDIT REPORT

28. In exercising its discretion or making determinations under this SCD, EPA shall be reasonable in considering all of the relevant circumstances. However, all determinations required to be made by EPA under this SCD, including the determination of whether each report has been completed satisfactorily, shall be in the sole discretion of EPA. EPA shall be under no obligation to review and/or approve any Quarterly Audit Report and/or the Final Audit Report that is not submitted or revised by MTA within the deadline established for such submission or revision in this SCD, or pursuant to Section V of this SCD.

29. Any AON of the regulations listed in paragraph 5 of this SCD discovered and not corrected, or discovered but not disclosed pursuant to the Audit, in an approved Quarterly Audit Report or the Final Audit Report, shall not qualify for the audit penalties set forth in Section VII of this SCD and EPA shall have the right to seek and collect the maximum civil penalty allowed by law for such AON. Notwithstanding any other provisions of this SCD, no action or decision by EPA pursuant to this SCD shall constitute final agency action giving rise to any right to judicial review prior to EPA's initiation of judicial action to compel compliance with this SCD, the Consent Agreement or the Final Order.

V. FORCE MAJEURE

30. If any event occurs which causes or may cause delays in the completion of the tasks required under this SCD, MTA shall notify EPA in writing within 10 days of such event or

within 10 days of MTA's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by MTA to prevent or minimize the delay, and the timetable by which those measures will be implemented. MTA shall implement all reasonable and feasible measures to avoid or minimize any such delay. Failure by MTA to comply with the notice requirements of this Section shall render this Section void and of no effect as to the particular incident involved and constitute a waiver of the MTA's right to request an extension of its obligation under this SCD based on such incident.

31. If the parties agree that the delay or anticipated delay in complying with this SCD has been or will be caused by circumstances entirely beyond the control of MTA which could not or cannot be overcome by due diligence, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate in writing to such extension of time.

32. In the event that EPA does not agree that a delay in achieving compliance with the requirements of this SCD has been or will be caused by force majeure, EPA, in its sole discretion, will notify MTA in writing of its decision. Such delays shall not be the basis for any extension of time for the performance of MTA's obligations under this SCD.

33. The burden of proving that any delay is caused by force majeure shall rest with MTA. Increased costs or expenses associated with the implementation of actions required by this SCD shall not, in any event, be a basis for changes in this SCD or extensions of time, hereunder.

VI. MTA'S RIGHT OF APPEAL

34. Before EPA invokes any of its rights under paragraphs 13 and 23 of this SCD, including without limitation, its right to terminate this SCD, MTA shall have the right to seek a written

appeal to the EPA Deputy Regional Administrator for Region III. The written appeal shall state the basis for MTA's appeal. The written appeal shall operate as a stay of any matters under appeal under this paragraph until the EPA Deputy Regional Administrator makes a final ruling, in writing, on MTA's appeal. Nothing in this paragraph limits the rights of EPA under paragraph 38 of this SCD.

35. The DRA will make every effort to render a decision within forty (40) days of Respondent's service of the appeal. The decision of the DRA shall be final and binding on the parties.

VII. AUDIT CIVIL PENALTIES FOR DISCOVERED, DISCLOSED AND CORRECTED AONs UNDER THE MULTI-FACILITY, MULTI-MEDIA COMPLIANCE AUDIT

36. In the event an AON is discovered by the Auditor at any of MTA's facilities, MTA shall be subject to Audit Penalties in accordance with paragraph 37 for each discovered, disclosed and corrected AON. Each discovered, disclosed and corrected AON shall be resolved and settled by paying the assessed Audit Penalty in accordance with paragraph 37.

37. Upon EPA's acceptance of the Final Audit Report pursuant to this SCD, EPA shall furnish to MTA a proposed CAFO representing an agreement in principle between the parties, and prepared in accordance with 40 C.F.R. Part 22 to resolve any claims for civil penalties EPA may have against MTA for any violation of the regulations listed in paragraph 5 of this SCD discovered and corrected pursuant to the Audit and disclosed in such approved Quarterly Audit Report and/or Final Audit Report. For violations disclosed under the Quarterly Audit Reports and/or Final Audit Report, MTA agrees to pay a civil penalty, as calculated under the applicable penalty policies, not to exceed a total of \$250,000 as the assessed Audit Penalty, and perform

one or more Supplemental Environmental Projects (SEPs) for which MTA agrees to expend at least \$800,000. MTA shall have thirty (30) days from receipt of such proposed CAFO, unless such time period is extended by written mutual consent by the parties, within which to obtain a letter from the Secretary of MDOT, indicating the Secretary's support of the settlement. This settlement is subject to the approval of the Maryland Board of Public Works and the Office of the Attorney General of the State of Maryland. MTA will make all reasonable efforts to obtain the necessary approvals to finalize this settlement. After signature by EPA, the fully executed CAFO shall be filed with the Regional Hearing Clerk in accordance with the Consolidated Rules of Practice. Nothing herein shall bar EPA from bringing an action in any appropriate forum seeking appropriate relief for any violation not discovered, disclosed and corrected by MTA pursuant to the terms of this SCD.

38. In the event that MTA fails, refuses, or does not obtain the necessary approvals to enter into such proposed CAFO with respect to any violation discovered and corrected pursuant to the Audit and disclosed in an approved Quarterly Audit Report and/or the Final Audit Report which is the subject of such CAFO, EPA shall have the right to commence an appropriate enforcement action for such violations, seek and collect the maximum civil penalty allowable by law for such violation without regard to the audit penalties in paragraph 37. MTA retains any defenses to any such action by EPA.

39. No criminal violation, and no civil violation that results in serious actual harm, or that may present an imminent and substantial endangerment to public health or the environment, shall qualify for the imposition of audit penalties and satisfaction under this SCD, or under the attached CAFO. EPA reserves the right to seek and obtain injunctive relief and the imposition of the maximum civil penalty or criminal sanction allowed by law for any such violation.

VIII. TOLLING OF THE STATUTE OF LIMITATIONS

40. MTA agrees to submit to EPA a proposed tolling agreement at the time that the parties enter into good faith negotiations for the CAFO that is contemplated by this SCD. The CAFO will cover the AON's identified by the Audits required by Section II(D) of this SCD. The proposed tolling agreement will toll the statute of limitations on AON's from the time that MTA submits the Final Audit Report to EPA (pursuant to paragraph 18), until either: (1) the date that the parties execute the CAFO that is contemplated by this SCD; or (2) the date that either party gives written notice that no agreement on a CAFO can be reached. The tolling agreement shall be in the form provided in Appendix E.

IX. CLAIM OF CONFIDENTIALITY

41. Pursuant to 40 C.F.R. § 2.203, MTA may submit a claim of confidentiality for any document or information submitted under this SCD. Failure to make a confidentiality claim at the time the document is submitted shall constitute a waiver of such claim. MTA shall not assert a claim of confidentiality with respect to any sampling, monitoring or analytical data.

APPENDIX C
(APPROVAL BY BOARD OF PUBLIC WORKS)

To: B. McAllister
410.865.1388

SUPPLEMENTAL

43B

BPW 12/6/2006

**DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA****GENERAL MISCELLANEOUS****ITEM:** 16-GMAgency Contact: Jim Ports (410) 865-1130
jports@mdot.state.md.us**DEPARTMENT/PROGRAM:**Transportation/Maryland Transit
Administration Office of Safety and Risk
Management**AMOUNT OF REQUEST:**

\$1,178,827.00 (see Description section)

DESCRIPTION: Request for approval of a settlement and payment of fees associated with an administrative enforcement action commenced by the United States Environmental Protection Agency (EPA) against the State of Maryland, the Maryland Department of Transportation (MDOT), and the Maryland Transit Administration (MTA). The administrative enforcement action springs from a multi-media environmental inspection of MTA's facilities by EPA, and the administrative complaints in the case alleged violations of the Clean Water Act (CWA), 33 U.S.C. §1251, *et seq.*, as well as the Resource Conservation Recovery Act (RCRA), 42 U.S.C. §6901, *et seq.* A letter sent under separate cover, from the Attorney General's Office will more thoroughly describe the history and terms of the settlement.

If approved by the Board of Public Works and the Court, the settlement would require the MTA to spend a substantial amount of public funds to perform the various tasks required by EPA under a Consent Agreement and Final Order intended to remedy the alleged violations contained in the administrative complaints. Payment includes a cash penalty of one hundred seventy-two thousand, two hundred and seven dollars (\$172,207.00), completion of a Supplemental Environmental Project (SEP) estimated to cost five hundred-sixteen thousand, six hundred and twenty dollars, (\$516,620.00), and the procurement of a firm to conduct compliance audits, estimated to be four hundred-ninety thousand dollars (\$490,000.00).

FUND SOURCE:

J05H0105

SUPPLEMENTAL

44B

BPW 12/6/2006

DEPARTMENT OF BUDGET AND MANAGEMENT
ACTION AGENDA

GENERAL MISCELLANEOUS

ITEM: 16-GM (Cont)

REQUESTING AGENCY REMARKS: MDOT, MTA and the OAG recommend this requested settlement to avoid complex and costly litigation. In light of the cost of litigation and the disruption caused by litigation, the requested amount is economically reasonable.

If the proposed settlement is approved, a check in the amount of sixty-four thousand eight-hundred and forty-six dollars (\$64,846.00) payable to "Oil Spill Liability Trust Fund-311" and a check in the amount of one-hundred and seven thousand three-hundred and sixty-one dollars (\$107,361.00) payable to "Treasurer, United States of America" should be drafted. Together these penalties comprise the total cash penalty of one hundred seventy-two thousand, two hundred and seven dollars (\$172,207.00). The costs associated with the SEP are incurred as the SEP is developed and implemented; therefore, the five hundred-sixteen thousand, six hundred and twenty dollars, (\$516,620.00) that under the agreement MTA must expend for the SEP is not due at this time. The checks for the cash penalties should be mailed to Denise Ferguson, Principal Counsel, Maryland Department of Transportation for delivery to the appropriate EPA office.

Board of Public Works Action - The above referenced Item was:

APPROVED

DISAPPROVED

DEFERRED

WITHDRAWN

WITH DISCUSSION

WITHOUT DISCUSSION

APPENDIX D
(MARYLAND PART 70 OPERATING PERMIT AND INITIAL APPLICATION)



U.S. Environmental Protection Agency

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Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations; [Notice, Final Policy Statement \(4/11/00\)](#) (PDF 89.4kb)
FR Notice, Tuesday, April 11, 2000, Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations; Notice, Final Policy Statement

Audit Protocols

CERCLA

[Protocol for Conducting Environmental Compliance Audits and the Comprehensive Environmental Response, Compensation and Liability Act \(12/1/98\)](#) (PDF 304 kb)

CWA

[Protocol for Conducting Environmental Compliance Audits under the Stormwater Program \(1/15/05\)](#) (PDF 895 KB)

Guidance including detailed regulatory checklists to assess environmental performance in the stormwater program.

[Protocol for Conducting Environmental Compliance Audits for Municipal Facilities under US EPA's Wastewater Regulations \(12/1/00\)](#) (PDF 775kb)

EPCRA

[Protocol for Conducting Environmental Compliance Audits under the Emergency Planning and Community Right-to-Know Act and CERCLA Section 103 \(3/1/01\)](#) (PDF 429 KB)

FIFRA

[Protocol for Conducting Environmental Compliance Audits under the Federal Insecticide, Fungicide, and Rodenticide Act \(FIFRA\) \(9/1/00\)](#) (PDF 575 kb)

Federal Facilities

[Environmental Audit Program Design Guidelines for Federal Agencies \(EPA 300-B-96-011\) \(4/30/97\)](#)

RCRA

Protocol for Conducting Environmental Compliance, Audits of Facilities Regulated under Subtitle D of RCRA (3/1/00) (PDF 751 kb)

Protocol for Conducting Environmental Compliance, Audits of Storage Tanks under the Resource Conservation and Recovery Act (3/1/00) (PDF 11 MBkb)

Protocol for Conducting Environmental Compliance, Audits of Treatment, Storage and Disposal Facilities under the Resource Conservation and Recovery Act (12/1/98) (PDF 712 KB)

Protocol for Conducting Environmental Compliance, Audits of Hazardous Waste Generators under the Resource Conservation and Recovery Act (10/1/98) (PDF 729 KB)

SWDA

Protocols for Conducting Environmental Compliance, Audits of Public Water Systems under the Safe Drinking Water Act (3/1/00) (PDF 1,020 kb)

TSCA

Protocol for Conducting Environmental Compliance Audits of Facilities with PCBs, Asbestos, and Lead-based Paint Regulated under TSCA (3/1/00) (PDF 1,010 kb)

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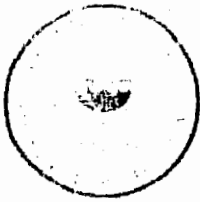
Compliance Monitoring - Assuring compliance through effective monitoring and assessment

Compliance Incentives - Lowering penalties for facilities that voluntarily disclose and correct environmental problems

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Last updated on March 20th, 2003

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Just the Facts for MVACs: EPA Regulatory Requirements for Servicing of Motor Vehicle Air Conditioners

Our Threatened Ozone Layer

The ozone layer acts as a blanket in the stratosphere that protects us from harmful ultraviolet (UV) radiation. Scientists worldwide believe that man-made chemicals such as CFC-12 (also known by the trade name Freon) are rapidly destroying this layer of gas 10 to 30 miles above the earth's surface. Strong UV radiation breaks the CFC-12 molecules apart, releasing chlorine. A single chlorine atom can destroy over one hundred thousand ozone molecules. Ozone loss in the atmosphere is likely to lead to an increase in cataracts and skin cancer, which is now one of the fastest growing forms of cancer, and could weaken the human immune system. In the U.S., one person dies of skin cancer every hour. Agriculture, as well as plant and animal life, may also be dramatically affected.

Remember that ozone is "good up high, bad nearby": even though it protects us when it is in the stratosphere, ozone at ground level can be harmful to breathe and is a prime ingredient in smog. Many man-made sources such as tailpipe emissions from cars contribute to ground-level ozone.

Global Action to Protect the Ozone Layer

The United States has joined over 160 countries as a Party to the international treaty known as the Montreal Protocol. All developed countries agreed to phase out production of most ozone-depleting substances, including CFCs, by the end of 1995. The 1990 Clean Air Act Amendments (the Act) incorporated this production ban date and directed EPA to develop regulations to maximize recycling, ban nonessential uses, develop labeling requirements and examine safe alternatives for ozone-depleting substances.

Impact of Motor Vehicle Air Conditioners

One of the largest uses of CFC-12 in the U.S. is as a refrigerant in motor vehicle air conditioners (MVACs). Section 609 of the Act gives EPA the authority to establish requirements to prevent the release of refrigerants during the servicing of MVACs and to require recycling of refrigerants. Widespread refrigerant recycling reduces the demand for virgin CFC-12 and thus extends the time that it will be available. The following sections describe the requirements of the law and its potential impact on the service industry.

Recycling vs. Reclamation

In the discussion below, recycling means the use of a machine to remove impurities and oil and then recharge the refrigerant into either the same car or a different car. Recycled refrigerant is not as pure as reclaimed refrigerant. Recycling occurs in the service shop.

Reclamation means the removal of all oil and impurities beyond that provided by on-site recycling equipment, and reclaimed refrigerant is essentially identical to new, unused refrigerant. Reclamation cannot be performed in the service shop. Rather, the shop generally sends refrigerant either back to the manufacturer or directly to a reclamation facility.

Handling CFC-12

Venting CFC-12

Another section of the Clean Air Act, section 608, prohibits releasing CFC-12 into the atmosphere. The prohibition on venting CFC-12 has been in effect since 1992.

Section 609 Regulatory History

The original regulation promulgated under section 609 was published in July 1992. That regulation established standards for equipment that recovers and recycles CFC-12 refrigerant from motor vehicle air conditioners, rules for training and testing technicians to handle this equipment, and record-keeping requirements for service facilities and for refrigerant retailers. A supplemental final rule published in May 1995 established a standard for equipment that recovers but does not recycle CFC-12, and training and testing technicians to handle this equipment.

Approved Equipment

Technicians repairing or servicing CFC-12 MVACs must use either recover/recycle or recover-only equipment approved by EPA. Recover/ recycle equipment cleans the refrigerant so that oil, air and moisture contaminants reach acceptably low levels.

Technician Training and Certification

Technicians who repair or service CFC-12 and HFC-134a motor vehicle air conditioners must be trained and certified by an EPA-approved organization. Training programs must include information on the proper use of equipment, the regulatory requirements, the importance of refrigerant recovery, and the effects of ozone depletion. To be certified, technicians must pass a test demonstrating their knowledge in these areas. A list of approved testing programs is available from the Hotline and the web site listed above.

Recordkeeping Requirements

Service shops must maintain records of the name and address of any facility to

which refrigerant is sent. If refrigerant is recovered and sent to a reclamation facility, the name and address of that facility must be kept on file. Service shops are also required to maintain records (on-site) showing that all service technicians are properly certified.

Certification Requirements

Service shops must certify to EPA that they have acquired and are properly using approved refrigerant recovery equipment, and that each person using the equipment has been properly trained and certified. The certification statement shall include the name and address of the service establishment, the name of the equipment manufacturer, equipment model and serial number, and equipment date of manufacture. A sample certification form (PDF, 115KB) shows the information that should be included in the signed statement.

Sales Restrictions

Section 609 has long prohibited the sale of small cans of ozone-depleting refrigerants to anyone other than a certified technician. The sale of any size container of CFC-12 to anyone other than certified technicians was prohibited under section 608 of the Act beginning on November 14, 1994. This provision is intended to discourage "do-it-yourselfers" who recharge their own air conditioners. Such individuals often release refrigerant because they typically do not have access to recovery/recycling equipment. The Agency encourages "do-it-yourselfers" to bring their cars to certified technicians who can properly fix air conditioners using approved equipment. This avoids damage to A/C equipment by improper charging and helps to protect the environment.

Handling HFC-134a

Venting HFC-134a Refrigerant

Section 608 of the Clean Air Act prohibits releasing HFC-134a into the atmosphere. The prohibition on venting HFC-134a has been in effect since November 1995.

Section 609 Regulatory History

In March, 1996, EPA proposed a rule to require recycling of HFC-134a. The rule proposed standards for recover-only and recover/recycle equipment and rules for training and testing technicians to handle this equipment. EPA requested comments from the public about this proposed rule, and, after reviewing the comments, published a final rule on December 30, 1997. This final rule will become effective on January 29, 1998. For more information about this rule, see the fact sheet "Summary of Final Rule Governing Substitutes for CFC-12 Refrigerant in Motor Vehicle Air Conditioners" available through the Hotline and the web site.

Approved Equipment

Technicians who repair or service HFC-134a MVACs must recover the refrigerant and either recycle it on-site, or send it off-site to a reclamation facility so that it may be purified according to ARI Standard 700. Technicians must use EPA-

approved equipment to perform the refrigerant recovery and recycling. Recover/recycle equipment cleans the refrigerant so that oil, air and moisture contaminants reach acceptably low levels. A list of approved recover/recycle and recover-only equipment is available from the Hotline and the web site listed above. Note that certain EPA-approved models can recycle both CFC-12 and HFC-134a refrigerants.

Converting CFC-12 Equipment for Use with HFC-134a

EPA regulations prohibit technicians from changing fittings on the same unit back and forth so that the unit is used for CFC-12 in the morning, HFC-134a in the afternoon, then back to CFC-12 again, etc.

EPA regulations specify that when equipment is converted for use with a new refrigerant, the converted unit must be able to meet the applicable equipment standard set forth in the regulations. CFC-12 equipment may be permanently converted for use with HFC-134a under certain conditions. EPA intends to issue regulations placing certain restrictions on these retrofits in the future. Those restrictions may require that the manufacturer's service representative rather than the automotive service technician perform the retrofit, that a unit may only be retrofitted if retrofit procedures have been certified by an independent testing laboratory such as Underwriters Laboratories, and that an appropriate label is affixed to the unit. In addition, the retrofitted unit must meet the technical specifications of SAE standard J2210 and must have the capacity to purify used refrigerant to SAE standard J2099 for safe and direct return to the air conditioner following repairs.

Currently, however, in the absence of any EPA regulations, a service facility may perform such a retrofit, or may have the equipment manufacturer's service representative perform the retrofit, as long as the fittings are changed in accordance with EPA's Significant New Alternative Policy (SNAP) program regulations. The Agency cautions technicians, however, that even though recovering a given refrigerant using permanently converted equipment is legal, it may not be technically desirable. The equipment is designed to be compatible with specific refrigerants, and incompatible materials may cause short circuits, damage to seals, and compressor failure. Technicians should check with the recovery equipment manufacturer for recommendations about the recovery of refrigerants other than the refrigerant the equipment was originally intended to recover. Conversion of recovery equipment for use with other refrigerants may also invalidate any warranties offered by the equipment manufacturer.

Technician Training and Certification

Technicians who repair or service HFC-134a MVACs must be trained and certified by an EPA-approved organization. If a technician is already trained and certified to handle CFC-12, he does not need to be recertified to handle HFC-134a.

Recordkeeping Requirements

Service shops must certify to EPA that they own approved HFC-134a equipment. Note that this certification is a one-time requirement, so that if a shop purchased a piece of CFC-12 recycling equipment in the past, and sent the certification to EPA, the shop does not need to send a second certification to EPA when it purchases a second piece of equipment, no matter what refrigerant that equipment is designed to handle. If refrigerant is recovered and sent to a reclamation facility, the shop must retain the name and address of that reclaiming facility.

Sales Restrictions

Right now, there is no restriction on the sale of HFC-134a, so anyone may purchase it. This year, EPA will issue a proposed rule under section 608 of the Act that will include a proposal to restrict the sale of HFC-134a so that only technicians certified under sections 608 and 609 may purchase it. After the proposed rule is published, EPA will review comments from the public on the proposal and will then publish a final rule sometime in 1998 or 1999.

Handling Other Refrigerants that Substitute for CFC-12

Venting Substitute Refrigerants

Other than HFC-134a, all EPA accepted refrigerants that substitute for CFC-12 in motor vehicles, and that are currently on the market, are blends that contain ozone-depleting HCFCs such as R-22, R-142b and R-124. Section 608 of the Clean Air Act prohibits venting any of these new blend substitutes into the atmosphere. The prohibition on venting these ozone-depleting blends has been in effect since 1992.

Section 609 Regulatory History

The December, 1997 final rule established a standard for equipment that is designed to recover, but not recycle, any single, specific blend substitute refrigerant.

Using Older Equipment to Recover Blends

Technicians have a number of choices in recovering blend refrigerants. One option is that a technician may permanently dedicate an older piece of equipment he owns to recovering one or more blend refrigerants. The technician may also use this equipment to recover contaminated CFC-12 and HFC-134a and other "mystery mixtures." This equipment, however, may no longer be used to recover uncontaminated CFC-12 or HFC-134a. Refrigerant recovered using this kind of "junk" tank must then be shipped off-site for reclamation or destruction.

Using New Equipment to Recover Blends

Another option for recovering a blend refrigerant is to use a new piece of EPA-approved equipment designed to recover, but not recycle, any single, specific blend refrigerant. The EPA regulation published in December, 1997, includes an appendix that describes the standards that this new equipment must meet.

In addition, EPA is currently working with independent testing laboratories and equipment manufacturers to devise a standard for new equipment that can recover, but not recycle, both multiple blend refrigerants and contaminated CFC-12 and HFC-134a. EPA will finalize a standard for this type of equipment by the end of 1998. This equipment may be commercially available by the 1998 A/C season. EPA expects to grandfather any equipment purchased in 1998 before the EPA standard becomes finalized.

Recycling Blends

As of June 1, 1998, EPA allows recycling of refrigerant blends used in motor vehicle air conditioning systems (MVACs), provided that a) recycling equipment meets a new Underwriters Laboratories (UL) standard (Standard 2964) and b) refrigerant is returned to the vehicle from which it was removed. The only exception to item b) is for fleets of vehicles with a common owner; recycled blend refrigerant may be moved among vehicles within such a fleet. EPA detailed this policy in a June 1, 1998 open letter to the industry. Certified recycling equipment may be commercially available during the 1998 A/C season. EPA plans to adopt this new UL standard into EPA's regulations and to grandfather any equipment that (1) meets the UL standard and (2) is purchased before the date on which EPA publishes a proposed rule to adopt the UL standard.

Converting CFC-12 or HFC-134a Recover/Recycle Equipment for Use with Blend Substitutes

EPA currently prohibits the conversion of existing CFC-12 or HFC-134a recycling equipment for either temporary or permanent use with a blend refrigerant, unless the equipment is used only to recover, but not to recycle, the refrigerant. In the future, EPA may issue regulations allowing these conversions but placing certain restrictions on who performs the conversions, what models may be converted, etc.

Technician Training and Certification

Technicians who repair or service MVACs that use blend refrigerants must be trained and certified by an EPA-approved organization. If a technician is already trained and certified to handle CFC-12 or HFC-134a, he does not need to be recertified to handle a blend refrigerant.

Recordkeeping Requirements

Service facilities that work on vehicles that use blend substitutes must certify to EPA that they own approved equipment designed to service these refrigerants. Note that this certification is a one-time requirement, so that if a shop purchased a piece of CFC-12 or HFC-134a recycling equipment in the past, and sent the certification to EPA, the shop does not need to send a second certification to EPA when it purchases a second piece of equipment, no matter what refrigerant that equipment is designed to handle. If refrigerant is recovered and sent to a reclamation facility, the shop must retain the name and address of that reclaimer.

Sales Restrictions

Section 608 regulations prohibit the sale of any size container of any blend refrigerant to anyone other than a certified technician. This prohibition began in November, 1994.

Retrofitting Vehicles to Alternative Refrigerants

Although section 609 of the Act does not govern retrofitting, section 612 of the Act, which describes the Agency's Significant New Alternatives Policy (SNAP) program, does require that when retrofitting a CFC-12 vehicle for use with another refrigerant, the technician must first extract the CFC-12, must cover the CFC-12 label with a label that indicates the new refrigerant in the system and other information, and must affix new fittings unique to that refrigerant. In addition, if a technician is retrofitting a vehicle to a refrigerant that contains R-22, the technician

must ensure that only barrier hoses are used in the A/C system. Finally, if the system includes a pressure relief device, the technician must install a high-pressure compressor shutoff switch to prevent the compressor from increasing pressure until the refrigerant is vented.

Much more information about the SNAP program and about retrofitting procedures is available in a fact sheet called *Choosing and Using Alternative Refrigerants*.

[Ozone Home](#) | [Ozone Science](#) | [Rules & Regulations](#) | [Alternatives](#)

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Last updated on Wednesday, March 8th, 2006
URL: <http://www.epa.gov/docs/ozone/title6/609/justfax.html>

Guidance Document for the Halogenated Solvent Cleaner NESHAP

Sponsored by:

Emission Standards Division
Office of Air Quality Planning and Standards
U. S. Environmental Protection Agency
Research Triangle Park, NC 27711

Federal Small Business Assistance Program
Control Technology Center
Information Transfer and Program Integration Division (ITPID)
Office of Air Quality Planning and Standards
U. S. Environmental Protection Agency
Research Triangle Park, North Carolina 27711

April 1995 (Revised July 2004)

Disclaimer

This report is not a legally binding document, and is not meant to replace the published regulation titled "National Emission Standards for Hazardous Air Pollutants (NESHAP): Halogenated Solvent Cleaning." This document presents specific aspects of the regulation and may not cover all parts of the regulation. This document is an elaboration of the appropriate legal document(s), and the final authority rests solely in the legal document(s). Refer to the Office of the Federal Register website for the latest regulatory text for this rulemaking:
<http://www.gpoaccess.gov/fr/index.html>

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GLOSSARY

CONVERSION CHART

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BATCH COLD CLEANING MACHINE WORK PRACTICE REQUIREMENTS AND REPORTING FORMS

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BATCH COLD CLEANING MACHINE WORK PRACTICE REQUIREMENTS

COMPLY WITH THE FOLLOWING WORK PRACTICES (MACHINES WITH WATER LAYER EXEMPT FROM WORK PRACTICES).

-  Store solvent waste in closed containers.
-  Flush parts in freeboard area.
-  Minimize the pooling of solvent on and in parts.
-  Do not fill machine above fill line.
-  Clean up spills immediately.
-  Store wipe rags in closed containers.
-  Do not agitate solvent to the point of causing splashing.
-  When cover is open, control room drafts
-  Do not clean absorbent materials.

HALOGENATED SOLVENT CLEANER NESHAP:
Initial Notification Report for Batch Cold Cleaners Report

PART ONE - General Information

Person Preparing Form: _____ Date: _____
Last Name, First Name, Middle Initial

Company Name _____

Mailing Address _____
Number, Street, City/Town, State, Zip Code

Equipment
Location Address _____
Number, Street, City/Town, State, Zip Code

Cleaning Machine Summary

Identification Number

Description

HALOGENATED SOLVENT CLEANER NESHAP:

Initial Notification Report for Batch Cold Cleaners

PART TWO - Information Required per Machine

(Make copies for additional machines as necessary)

Cleaner Identification Number: _____

Cleaning Machine Type (circle one): Immersion Remote-Reservoir

Machine Installation Date: _____

Anticipated Equipment Control Combination Compliance Approach (circle one):

Cover and Water Layer

Cover and a 0.75
Freeboard Ratio or Greater
with Work Practices

Cover with Work
Practices

Annual Solvent Consumption Estimate: _____ kg/yr or lb/yr.

HALOGENATED SOLVENT CLEANER NESHAP:

Compliance Report for Batch Cold Cleaners

PART ONE - General Information

Person Preparing Form: _____ Date: _____
Last Name, First Name, Middle Initial

Company Name _____

Mailing Address _____
Number, Street, City/Town, State, Zip Code

Equipment
Location Address _____
Number, Street, City/Town, State, Zip Code

Cleaning Machine Summary

Identification Number

Description

HALOGENATED SOLVENT CLEANER NESHAP:

Compliance Report for Batch Cold Cleaners

PART TWO - Information Required per Machine

(Make copies for additional machines as necessary)

Cleaner Identification Number: _____

Cleaning Machine Type (circle one):

Immersion

Remote-Reservoir

This batch cold cleaner complies with the rule.

Signature

Date

Method of Compliance (circle one):

Cover and Water Layer

Cover and a 0.75
Freeboard Ratio or Greater
with Work Practices

Cover with Work
Practices

PART 70 OPERATING PERMIT INITIAL APPLICATION

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I. Introduction

A. Part 70 Permit

A Part 70 Permit is required by Title V of the 1990 Clean Air Act Amendments. Part 70 is a federally enforceable permit program administered by the Maryland Department of the Environment (MDE) for certain stationary sources.

Facilities are encouraged to submit applications before the required date, as described in COMAR 26.11.03.02B, to allow ample time for MDE to act on all applications.

A facility's Part 70 permit application must include specific emissions information, a description of a facility's processes and products, a description of all applicable regulations and requirements, a compliance plan for all emissions units which are out of compliance with any applicable regulation or requirement, and a compliance certification. All testing, monitoring, reporting, and record keeping requirements must also be identified in the application. For standards that have no specific periodic testing and monitoring requirements or guidance, the facility may submit a proposal for consideration by MDE.

In addition, the permit applicant is required to submit information pertaining to requirements that are enforceable only by MDE. This information on State-only enforceable requirements is separate from the federally enforceable Part 70 permit application information. Examples of such State-only enforceable requirements include information necessary to determine compliance with State regulations on air toxics, nuisances, odors, and continuous emission monitoring telemetry.

MDE will make a completeness determination within 60 days after receiving a Part 70 permit application using the completeness checklist included in this application package.

If a timely application is found to be complete, the facility receives an "application shield" as defined in COMAR 26.11.03.01D. If additional information is requested in order to process the application, MDE will establish reasonable deadlines for the facility to submit the required information. The facility will retain the "application shield" provided that it complies with these deadlines.

B. Facilities Subject to the Part 70 Permit Requirements

The following facilities are required, by federal regulation, to obtain a Part 70 permit:

- (1) A major source (as defined in COMAR 26.11.02.01C);
- (2) A facility subject to a standard, limitation, or other requirement under Section 111 (New Source Performance Standards (NSPS) Requirements) of the Clean Air Act;
- (3) A facility, including an area source, subject to a standard or other requirement under Section 112 (Hazardous Air Pollutants (HAPS) Requirements) of the Clean Air Act, except that a source is not required to obtain a Part 70 permit solely because it is subject to regulations or requirements under Section 112(r) (Accidental Release Program Requirements) of the Clean Air Act;
- (4) An affected source as defined in Title IV (Acid Rain Program Requirements); and

- (5) A facility in a source category designated by the EPA pursuant to 40 CFR Section 70.3 (Part 70 Permits Applicability Requirements).

Please note that non-major facilities subject to either Section 111 or 112 of the Clean Air Act are deferred from applying for a Part 70 Permit at this time. Whenever the EPA takes action to end the deferral, affected facilities will be required to submit an application within twelve months after the deferral expiration.

In order for a facility not to be considered a major source, it may choose to limit its potential-to-emit to below the thresholds that trigger the requirement to obtain a Part 70 permit. This action would classify the facility as a "synthetic minor". A source may become a synthetic minor source by accepting a limitation in a permit to construct or State permit to operate that restricts potential emissions to below major source thresholds. The mechanism to obtain a synthetic minor status is subject to change. The EPA is considering adopting regulations that may affect how a facility can obtain a synthetic minor status. An applicant interested in becoming a synthetic minor source should contact the Department to learn about the current rules.

C. Emissions Units and Activities Exempted from the Application

COMAR 26.11.03.02G requires a facility to submit a list of emissions units and activities located at the facility that are exempt from the Part 70 permit application due to size, production rate, and/or emission rate. A checkoff list of such exempted emissions units and activities at the facility shall be submitted with the Part 70 application. This list requires the applicant, for certain categories of activities (e.g., unheated storage of VOC with an initial boiling point of 300°F (149°C) or greater), to indicate the number of such units located at the facility. The Department may request additional information regarding such activities. The List of Exempted Units will be attached to the application when the docket is prepared for the public participation process. The general public and interested groups have the opportunity to review the list and request additional information. The List of Exempted Units will be included in the Part 70 permit, along with any applicable Clean Air Act requirements.

D. Emissions Units Subject to CAM

"Compliance Assurance Monitoring" or CAM (40CFR part 64) is intended to provide a reasonable assurance of compliance with applicable requirements under the Clean Air Act (CAA) for large units that rely on pollution control device equipment to achieve compliance. For facilities subject to CAM requirements, the applicant must submit a CAM plan as an attachment to the Part 70 application.

For an emissions unit to be subject to 40 CFR Part 64, the unit must: be located at a major source for which a Part 70 or 71 permit is required; be subject to an emission limitation or standard; use a control device to achieve compliance; have potential precontrol emissions of at least 100% of the major source amount, and must not otherwise be exempt from CAM. If a unit does not meet all of these requirements, the unit is not subject to CAM.

For additional guidance on the requirements of CAM and what is required as part of the CAM plan, the EPA has prepared a technical support document. It can be accessed at the following website: www.epa.gov/ttn/emc/cam.html.

E. Facilities Subject to State Permits to Operate

For a facility for which a State permit to operate is required, as provided in COMAR 26.11.02.13, a Part 70 permit for that facility also constitutes a State permit to operate for that source. A facility's State permit to operate is superseded by the issuance of a Part 70 permit covering that facility.

The applicant of a facility for which a Part 70 permit is required shall submit additional information based upon applicable requirements of the State air pollution control law in addition to the federally enforceable requirements in the Part 70 application form. Attached to the end of the Part 70 application are the forms to complete for state-only enforceable requirements.

II. Instructions: Part 70 Operating Permit Application Form

A. Overview

These instructions are meant to assist facilities in completing the Part 70 Permit Applications.

Note on General Organization of the Application Form

The applicant may be required to replicate certain portions of this Part 70 form (e.g. Sections 3A, 3B, 4, etc.) in order, for example to describe each emissions unit or applicable requirement at the facility. Consequently, certain large or complex facilities may have an application with many pages. A numbering scheme for the completed application, especially multiple copies of sections of this form (e.g., 3A-1, 3A-2, etc.), is therefore requested. Pagination, even for smaller sources, will not only facilitate review and discussion of the application, but may prevent the inadvertent omission or loss of pages that could jeopardize a timely completeness determination.

Number of Copies of the Application to Submit

Submit three copies of the application along with each attachment. One copy remains with the public docket at the Department's offices in Baltimore. A second copy is placed in a docket that is sent to the local public library near the facility during the public participation phase of the issuance process. A third copy is sent to the EPA upon request.

If the application contains confidential information, the applicant shall submit one application with the confidential information clearly marked. In addition, submit two copies of the application with the confidential information deleted. On the front of the application forms mark the copies as confidential or non-confidential.

B. Federally-Enforceable Requirements

Cover Page

1. Include the name and address of the owner or operator, including a telephone number and fax number.
2. Include the name and address of the facility, including the plant manager's name, telephone number, fax number, and an e-mail address.
3. Include a 24-hour emergency telephone number for air pollution matters.
4. If there is more than one owner, operator, facility manager, or contact, attach their name(s) and address(es) along with their telephone number(s) fax number(s), and e-mail address(es).

Section 1. Certification Statements

Please read this page carefully. A responsible official must sign to the truth and

accuracy of the four statements. The application will be considered incomplete without the signature of a responsible official. A responsible official is defined in COMAR 26.11.02.01B(47) and, in general, is:

1. For a corporation, a partnership, or a sole proprietorship, a president, secretary, treasurer, or vice-president in charge of a principal business function, or another person who performs similar policy or decision-making functions for the corporation, partnership, or sole proprietorship or a duly authorized representative of that person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit; or
2. For a municipal, State, federal, or other public agency, either a principal executive officer or ranking elected official.

Section 2. Facility Description Summary

1. Describe the major activities at the facility, including the applicable SIC code(s) and end product(s).
2. Indicate whether the facility is a major source based on actual emissions of air pollutants, or major based on potential emissions, or whether the source is a solid waste incineration unit required to obtain a part 70 permit under§ 129(e) of the CAAA. (For example, a hospital, medical, infectious waste incinerator, HMIWI, is required to obtain a Part 70 permit.)
3. Flow diagrams indicating all emissions units, emission points, and control device(s) must be submitted. An emissions unit is an incinerator, a piece of fuel-burning equipment, or a process line. An emission point is an identifiable point or source within an emissions unit where a criteria pollutant or a hazardous air pollutant is discharged either from a stack or as fugitive emissions. The facility must assign a specific number to each emissions unit and each emissions point. These assigned numbers must be indicated on the flow diagrams.

A plot plan of the entire facility must be submitted. The plot plan should show the entire property, the layout of the buildings on the property, and the location of the emissions units. This drawing does not have to be to scale.

The applicant shall submit a copy of the most recent annual emissions certification report that was submitted to the Department. If the applicant has never filed an annual emissions certification report, the applicant should contact the Department to request a blank certification form. An annual emissions certification report must be submitted to the Department by April 1 of each calendar year by affected facilities.

Section. 3A. Emissions Unit Descriptions

This section must be completed for each non-exempt emissions unit within a facility including short-term activities. Make copies of the blank form as needed. The numbering of multiple copies (e.g., 3A-1, 3A-2, etc.) of this form as well as all

pages of the completed application is strongly recommended not only to facilitate review and discussion of the application, but also to prevent the inadvertent omission or loss of pages that could jeopardize a timely completeness determination.¹

1. Indicate the emission unit number, assigned by the facility, that identifies this unit from all others within the facility. If there is more than one emissions unit at the facility, attach a separate form (Section 3A) for each emissions unit. Include the date (month/year) the installation of the emissions unit was completed.
2. Include any registration number (if applicable), assigned by MDE, that is associated with this emissions unit.
3. Provide a detailed description of the emissions unit, including the emissions point(s) and their assigned number(s), associated with the unit.
4. Indicate any operating schedule limitations that are federally enforceable. Also, cite the references of the applicable federally enforceable requirements, (regulations, permit conditions, consent orders) which require the limitation.
5. Where applicable, specify type(s) of fuel, percent sulfur, and the annual usage of fuel. Be sure to specify the unit(s) of measure for the annual fuel usage.
6. Check off whether the emissions unit is an actual major or potential major source. Enter the actual emissions from the emissions unit.

Note that emissions units that have actual or potential before control emissions above major source thresholds, that are subject to an emissions standard, and require the use of an air pollution control device to meet the emissions standard are subject to the requirement to submit a CAM plan. Review the discussion of CAM plans

Section 3B. Citation and Description of Applicable Federally Enforceable Requirements

This section must be completed for each applicable federally enforceable emissions standard/ limit or operational limitation for each emissions unit.² Make

¹Where a facility has maintained a summary table, based upon an existing database report or spreadsheet, that contains the same information required by this section, the applicant may refer to that document in this section and include it as part of the application. Applicants choosing this option should, however, check with the Department to determine if proposed substitute format is acceptable.

²Where a facility has maintained a summary table, based upon an existing database report or spreadsheet, that contains the same information required by this section, the applicant may refer to that document in this section and include it as part of the application. Applicants choosing this option should, however,

copies of the blank form as needed. As with form 3A, the numbering of multiple pages (e.g., 3B-1, 3B-2, etc.) of this form is strongly recommended to facilitate review and the application completeness determination.

For each emissions unit:

1. Indicate the assigned emissions unit number. Where some or all of the emission units at a facility are subject to the same applicable emissions standard or operational limitation and will use the same methodology of compliance demonstration, the applicant may choose to group the emission unit numbers (e.g., "EU1 - EU4" or "Facility-wide"). The grouped emissions units must share the identical standards/limitations and the identical method of compliance demonstration. In addition, if an emissions unit consists of emissions points that have different applicable standards/limits or operational limitations, a separate Section 3B must be submitted for each emissions point for each different standard/limitation.
2. In the "General Reference" space, cite the federally enforceable basis for the emissions standard/limit or operational limitation. This will be either a federal regulation, a state regulation that is included in Maryland's approved State Implementation Plan (SIP), a condition based on a Clean Air Act requirement and is found in a permit to construct, or a condition from a consent order that is part of Maryland's SIP.
3. Briefly summarize the emissions standard/ limit or operational limitation. If there is more than one standard/limitation associated with the emissions unit(s)/point(s), attach a separate form Section 3B for each standard/limitation.
4. For each federally enforceable emissions standard/limit or operational limitation, describe how each emissions unit (emissions point) is monitored and/or tested to demonstrate compliance and indicate any record keeping or reporting activities. Indicate the reference (federally enforceable basis) for the monitoring, record keeping, reporting, and testing requirements. If the basis is not a federal regulation, a state regulation that is included in Maryland's approved SIP, a federally enforceable permit to construct condition, or a condition in a consent order that is in Maryland's approved SIP, indicate the reference as "COMAR 26.11.03.06C, proposed periodic monitoring".

The applicant is required to propose periodic monitoring when the basis for a federally enforceable emissions standard/limit or operational limitation does not have associated testing, monitoring, record keeping or reporting requirements sufficient for the applicant to demonstrate compliance with the emissions standard/limit or operational limitation. Periodic monitoring is not required for emissions units subject to New Source Performance Standards under 40 CFR Part 60 that were promulgated after August 1990, or subject to any Maximum Achievable Control Technology (MACT) Standards promulgated under 40 CFR Part 63.

5. Indicate the frequency of submittal of the compliance certification. Check off the reports that are required to be submitted. Every facility is required to submit

check with the Department to determine if proposed substitute format is acceptable.

a semi-annual monitoring report and an annual compliance certification. See COMAR 26.11.03.06C(7) and G(6). Many sources that require the use of continuous emissions monitors (CEMs) to demonstrate compliance with an emissions standard/limit are required to submit quarterly reports.

Section 3C. Obsolete, Extraneous, or Insignificant Permit Conditions

This form is used to list permit to construct conditions which should be considered to be obsolete, extraneous, or environmentally insignificant. For example, conditions relating to the construction activity during the building or modification of the source should be listed here. State-only enforceable permit to construct conditions should be listed on the forms provided in Part V.

Make copies of the blank form as needed. Pagination (e.g., 3C-1, 3C-2) is recommended.

1. Indicate the emissions unit number.
2. Indicate the permit to construct number.
3. Indicate the emissions point number.
4. Indicate the date the permit to construct was issued.
5. Identify the condition number as indicated on the permit to construct.
6. Briefly describe the permit condition and the reason why it is believed to be obsolete, extraneous, or insignificant.

If the Department determines that any condition listed in this section should be retained as a federally enforceable requirement, the facility will be required to re-certify its application with respect to those permit to construct conditions.

Section 3D. Alternate Operating Scenarios

Briefly describe any alternate operating scenarios that apply to an emissions unit and assign a number to each scenario for identification purposes. For each scenario, provide the following information:

1. The emissions unit number, and
2. The operating parameters for the emissions unit (i.e. operating hours, materials and fuels consumed, etc.) and other information which describes the how the operation of the unit will change under the scenario.

Section 3E. Citation to and Description of Applicable Federally Enforceable Requirements for an Alternate Operating Scenario

Make copies of the blank form as needed. Pagination (e.g., 3E-1, 3E-2) is recommended.

This section must be completed for any applicable federally enforceable requirement that is triggered by an alternate operating scenario that has been described in Section 3D. See the instructions for Section 3B for completing this form.

Section 4. Control Equipment

This form is to be used to describe, where applicable, each piece of control equipment associated with each emissions point. If more than one piece of equipment is used in series to control the emissions from an emissions point, complete a separate Section 4 form for each. Make copies of the blank form as needed. Pagination (e.g., 4-1, 4-2) is recommended.

1. Describe the type of control equipment.
2. Indicate the associated emissions unit number.
3. Indicate the associated emissions point number.
4. List the pollutant(s) that is (are) being controlled and the applicable control efficiency for each pollutant.
5. Specify the capture efficiency of the equipment if it is less than 100%.

Section 5. Summary Sheet of Potential Emissions

This form should only be used by facilities in order to:

- 1) *claim an exemption based on an emissions level cutoff in a standard that has been issued for the category to which the emissions unit potentially belongs (i.e. MACT standard); and*
- 2) *resolve a dispute over whether a particular requirement is applicable or whether a source is major for a particular pollutant (NOx RACT or VOC RACT).*

Make copies of the blank form as needed. Pagination (e.g. 5-1, 5-2) is recommended.

1. List each emissions unit by its number corresponding to those identified in Section 3.
2. For each emissions unit, quantify all applicable pollutants in tons per year.
3. In the last row of the table, quantify the fugitive emissions of each pollutant emitted from the entire facility.
4. Attach a copy of all calculations.

Section 6. An Explanation of Proposed Exemptions from Otherwise Applicable Federally Enforceable Requirements.

Complete this section as indicated to describe and justify the exemption of an emission unit from a federally enforceable requirement, e.g., an exemption under the Early Reductions Program established in Section 112(i) of the Clean Air Act. This section can also be used to clarify that a given emissions unit is not subject to a particular requirement (e.g., a unit that is grandfathered or that has potential emissions below a major source threshold).

Make copies of the blank form as needed. Pagination (e.g., 6-1, 6-2) is recommended.

1. Identify the applicable requirement.
2. Briefly describe how the applicable requirement relates to the facility.
3. Specify the reasons for the proposed exemption or claim of non-applicability. If relevant, include (or refer to previously submitted) emissions calculations that demonstrate non-applicability.

Section 7. Compliance Schedule for Noncomplying Emissions Units

If an approved MDE administrative order or judicial consent decree is in effect, attach a copy of it and complete only block #1. For any other plan for compliance, complete blocks 1 through 3 as follows:

1. Identify each emissions unit, the requirement that is being violated, and the date on which the unit is expected to be in compliance;
2. Describe in detail the proposed plan to be used to achieve compliance; and
3. Indicate the schedule of remedial measures which includes an enforceable sequence of actions with milestone dates. Certified progress reports for noncomplying facilities shall be submitted at least quarterly.

C. CAM Plan

When applicable, the applicant must submit a CAM plan along with the Part 70 permit application. The application will not be considered complete if a required CAM plan is not submitted.

The monitoring design criteria for a CAM plan is spelled out in 40 CFR Part 64.3. The CAM plan submittal requirements are specified in §64.4.

The following outline summarizes the contents of a CAM plan.

- I. Background
 - A. Emissions unit identification
 - B. Applicable regulation, emissions limits, and monitoring requirements
 - C. Control technology description
- II. Monitoring Approach
 - A. General Criteria
 1. Performance indicator(s)

2. Indicator range(s) or designated condition(s)
For COMS, range(s) used to assure compliance with PM standards

B. Performance Criteria

1. Data representativeness
2. Verification of operational status (new or modified equipment)
3. QA/QC practices
4. Monitoring frequency and data collection procedures

For monitoring approaches using CEMS, COMS, and PEMS, performance criteria includes exceedance reporting required by regulation and exceedance period to be used for CAM

III. Justification

A. Monitoring approach and indicator

B. Indicator range(s)

1. Compliance test data and indicator data supporting range, or
2. Compliance test plan and schedule, or
3. Rationale and documentation for indicating that the ranges can be established without the need for compliance test data
For CEMS and PEMS: reference the most recent certification test for the monitor.

For guidance and examples of monitoring strategies, access EPA documents found at the following website:

www.epa.gov/ttn/eme/cam.html

D State-Only Enforceable Requirements

Cover Page

Provide the information as indicated.

Section 1. Citation to and Description of Applicable State-Only Enforceable Requirements

For each emissions unit which has State-only requirements, regulations, and/or permit conditions subject to the Maryland regulations:

1. Indicate the assigned registration and emissions unit numbers.
2. In the "General Reference" space, cite the basis for the State-only enforceable requirement: regulation, permit condition, or consent order. If there is more than one associated with the emissions unit, attach a separate form (Section 1) for each.
3. Briefly summarize the requirement, including any emission limit.

4. For each State-only enforceable requirement, describe how each emissions point within the emissions unit is monitored and/or tested to demonstrate compliance and indicate any record keeping or reporting activities.

M. YLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard Baltimore MD 21230
(410) 537-3000 1-800-633-6101 <http://www.mde.state.md.us>

PART 70 PERMIT INITIAL APPLICATION
AIR AND RADIATION MANAGEMENT ADMINISTRATION

Facilities required to obtain a Part 70 permit under COMAR 26.11.03.01 must complete and return this form. Applications are incomplete unless all applicable information required by COMAR 26.11.03.03 is supplied. Failure to supply additional information required by the Department to enable it to act on the application may result in loss of the application shield and denial of this application.

Owner and Operator:

Name of Owner or Operator:		
Street Address:		
City:	State:	Zip Code:
Telephone Number		Fax Number

Facility Information:

Name of Facility:		
Street Address:		
City:	State:	Zip Code:
Plant Manager:	Telephone Number:	Fax Number:
24-Hour Emergency Telephone Number for Air Pollution Matters:		
E-mail Address:		

List, on a separate page, the names and telephone numbers of other facility owners and persons with titles.



SECTION 1. CERTIFICATION STATEMENTS

1. Compliance Status with Applicable Enhanced Monitoring and Compliance Certification Requirements

The emissions units identified in this application are in compliance with applicable enhanced monitoring and compliance certification requirements.

2. Certification of Current Compliance with All Applicable Federally Enforceable Requirements

Except for the requirements identified in Section 7 of this application, for which compliance is not achieved, I hereby certify, based on information and belief formed after reasonable inquiry, that the facility is currently in compliance with all applicable federally enforceable requirements and agree that the facility will continue to comply with those requirements during the permit term.

You must complete a Section 7 form for each non-complying emissions unit.

3. Statement of Compliance with Respect to All New Applicable Requirements Effective During the Permit Term

I hereby state, based on information and belief formed after reasonable inquiry, that the facility agrees to meet, in a timely manner, all applicable federally enforceable requirements that become effective during the permit term, unless a more detailed schedule is expressly required by the applicable requirement.

4. Risk Management Plan Compliance

I hereby certify that, based on information and belief formed after reasonable inquiry, that a Risk Management Plan as required under 112(r) of the Clean Air Act:

☐ has been submitted;

☐ will be submitted at a future date; or

☐ does not need to be submitted.



5. Statement of Truth, Accuracy, and Completeness

"I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision and in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person(s) who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

RESPONSIBLE OFFICIAL:

X _____

SIGNATURE

DATE

PRINTED NAME

TITLE



SECTION 3B. CITATION TO AND DESCRIPTION OF APPLICABLE
FEDERALLY ENFORCEABLE REQUIREMENTS

Emissions Unit No.: _____ General Reference: _____

Briefly describe the Emission Standard/Limit or Operational Limitation:

Compliance Demonstration:

Methods used to demonstrate compliance:

Monitoring: Reference _____ Describe: _____

Testing: Reference _____ Describe: _____

Record Keeping: Reference _____ Describe: _____

Reporting: Reference _____ Describe: _____

Frequency of submittal of the compliance demonstration: _____

Check appropriate reports required to be submitted:

- ☐ Quarterly Monitoring Report: _____
- ☐ Annual Compliance Certification: _____
- ☐ Semi-Annual Monitoring Report: _____



**SECTION 3E. CITATION TO AND DESCRIPTION OF APPLICABLE
FEDERALLY ENFORCEABLE REQUIREMENTS FOR AN
ALTERNATE OPERATING SCENARIO**

Scenario No.: _____
Emissions Unit No.: _____ General Reference: _____

Briefly describe any applicable Emissions Standard/Limits/Operational Limitations:

Compliance Demonstration:

Methods used to demonstrate compliance:

Monitoring: Reference _____ Describe: _____

Testing: Reference _____ Describe: _____

Record Keeping: Reference _____ Describe: _____

Reporting: Reference _____ Describe: _____

Frequency of submittal of the compliance demonstration: _____

Check appropriate reports required to be submitted:

- ☐ Quarterly Monitoring Report: _____
☐ Annual Compliance Certification: _____
☐ Semi-Annual Monitoring Report: _____

SECTION 4. CONTROL EQUIPMENT

1. <u>Associated Emissions Units No. :</u>	2. <u>Emissions Point No.:</u>
3. <u>Type and Description of Control Equipment:</u>	
4. <u>Pollutants Controlled:</u>	Control Efficiency:
5. <u>Capture Efficiency:</u>	



**SECTION 6. EXPLANATION OF PROPOSED EXEMPTIONS FROM
OTHERWISE APPLICABLE FEDERALLY ENFORCEABLE
REQUIREMENTS**

Describe and cite the applicable requirements to be exempted. Complete this Section only if the facility is claiming exemptions from or the non-applicability of any federally enforceable requirements.

1. Applicable Requirement:
2. Brief Description:
3. Reasons for Proposed Exemption or Justification of Non-applicability:

SECTION 7. COMPLIANCE SCHEDULE FOR NONCOMPLYING EMISSIONS
UNITS

1. Emissions Unit #	Anticipated Compliance Date
Applicable Federally Enforceable Requirement being Violated:	

2. Description of Plan to Achieve Compliance:

Certified Progress Reports for sources in noncompliance shall be submitted at least quarterly to the Department.



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STATE-ONLY ENFORCEABLE REQUIREMENTS

Facility Information:

Name of Facility:	County:
Premises Number:	
Street Address:	
24-hour Emergency Telephone Number for Air Pollution Matters:	
Type of Equipment (List Significant Units):	



SECTION 1. CITATION TO AND DESCRIPTION OF
APPLICABLE STATE-ONLY ENFORCEABLE
REQUIREMENTS

Registration No.: _____

Emissions Unit No.: _____ General Reference: _____

Briefly describe the requirement and the emissions limit (if applicable):

Methods used to demonstrate compliance:





MDE

**MARYLAND DEPARTMENT
OF THE
ENVIRONMENT**

PART 70 PERMIT APPLICATION

- I. INTRODUCTION
- II. INSTRUCTIONS
- III. CHECKOFF LIST OF EMISSIONS UNITS AND ACTIVITIES
EXEMPT FROM THE PART 70 PERMIT APPLICATION
- IV. APPLICATION FORMS RENEWAL
- V. APPLICATION FORMS FOR STATE-ONLY
REQUIREMENTS
- VI. APPLICATION COMPLETENESS CHECKLIST

VI. Application Completeness Checklist

The purpose of this part is to list the information required to achieve a Part 70 application shield.

Cover Page

- () Name and address of owner or operator, including telephone number.
- () Name and address of facility, including the plant manager's name and telephone number.
- () A 24-hour emergency telephone number for air pollution matters.

Section 1 CERTIFICATION STATEMENTS

- () The certification statement completed and signed by a responsible official.

Section 2 FACILITY DESCRIPTION SUMMARY

- () A brief description of each of the source's process(es), including all applicable SIC codes and end products.
- () Flow diagrams indicating all emissions units, emission points, and control devices.
- () A plot plan of the entire facility.
- () Emission Certification Report.
- () General Emissions Information.

Section 3 EMISSIONS UNIT DESCRIPTIONS –

This section must be completed for each emissions unit.

Part A

- () Emissions unit number.
- () Detailed description of unit, including all emission points.
- () Federally enforceable limit(s) on the operating schedule.

- () Fuel consumption information for any emissions unit that consumes fuel including the type of fuel, percent sulfur, and annual usage of fuel.

Part B

- () A citation and description of each federally enforceable requirement, including all emission standards, for each emissions unit.
- () A statement of compliance demonstration techniques for each requirement, including a description of monitoring, record keeping, reporting requirements, and test methods.
- () The frequency of submittal of the compliance demonstration during the permit term.

Part C

- () Emissions unit number.
- () Permit to construct number.
- () Emissions point number(s).
- () Date(s) the permit to construct was issued.
- () Condition number(s) as indicated on the permit to construct.
- () Description of the permit condition(s) and the reason(s) why they are believed to be obsolete, extraneous, or insignificant.

Part D

- () Description of all alternate operating scenarios that apply to an emissions unit.
- () Number assigned to each scenario.
- () Emissions unit number.
- () Description of the operating parameters for the emissions unit and other information which describes the how the operation of the unit will change under the different scenario.

Part E

- () A citation and description of each federally enforceable requirement triggered by an operating scenario, including all emission standards, for each emissions unit.
- () As an attachment, the date and results of the most recent compliance demonstration for each emission standard and/or emissions certification report with relevant supporting documentation.
- () A statement of compliance demonstration techniques for each requirement, including a description of monitoring, record keeping, reporting requirements, and test methods.
- () The frequency of submittal of the compliance demonstration during the permit term.

Section 4 CONTROL EQUIPMENT

- () The type of each piece of air pollution control equipment
- () The capture and control efficiencies of the control equipment.

Section 5 SUMMARY SHEET OF POTENTIAL EMISSIONS

- () Quantity of potential emissions for criteria pollutants and HAPs emitted in tons per year for each emissions unit.
- () Fugitive emission estimations for the entire facility for criteria pollutants and HAPs emitted in tons per year.
- () Basis for all emission calculations.

Section 6 AN EXPLANATION OF PROPOSED EXEMPTIONS FROM OTHERWISE APPLICABLE FEDERALLY ENFORCEABLE REQUIREMENTS

- () An explanation of the proposed exemption.

Section 7 COMPLIANCE SCHEDULE FOR NONCOMPLYING EMISSIONS UNITS

- () Identification of emissions unit(s) not in compliance, including the requirement being violated and the effective compliance date.
- () Detailed description of methods to be used to achieve compliance.
- () A schedule of remedial measures, including an enforceable sequence of actions with milestones.

Attachment

- () Checklist of Insignificant Activities
- () CAM Plan (If Applicable)

III. Check-off List of Emissions Units and Activities Exempt from the Part 70 Permit Application

Insignificant Activities

Place a check mark beside each type of emissions unit or activity that is located at the facility. Where noted, please indicate the number of that type of emissions unit or activity located at the facility.

- (1) No. ____ Fuel burning equipment using gaseous fuels or no. 1 or no. 2 fuel oil, and having a heat input less than 1,000,000 Btu (1.06 gigajoules) per hour;
- (2) No. ____ Fuel-burning equipment using solid fuel and having a heat input of less than 350,000 Btu (0.37 gigajoule) per hour;
- (3) No. ____ Stationary internal combustion engines with less than 1,000 brake horsepower (746 kilowatts) operating less than 2000 hours, and any stationary internal combustion engines with less than 500 brake horsepower (373 kilowatts);
- (4) ____ Space heaters utilizing direct heat transfer and used solely for comfort heat;
- (5) ____ Water cooling towers and water cooling ponds unless used for evaporative cooling of water from barometric jets or barometric condensers, or used in conjunction with an installation requiring a permit to operate;
- (6) No. ____ Unheated VOC dispensing containers or unheated VOC rinsing containers of 60 gallons (227 liters) capacity or less;
- (7) ____ Commercial bakery ovens with a rated heat input capacity of less than 2,000,000 Btu per hour;
- (8) ____ Kilns used for firing ceramic ware, heated exclusively by natural gas, liquefied petroleum gas, electricity, or any combination of these;
- (9) ____ Confection cookers where the products are edible and intended for human consumption;
- (10) ____ Die casting machines;
- (11) ____ Photographic process equipment used to reproduce an image upon sensitized material through the use of radiant energy;
- (12) ____ Equipment for drilling, carving, cutting, routing, turning, sawing, planing, spindle sanding, or disc sanding of wood or wood products;

- (13) ____ Brazing, soldering, or welding equipment, and cutting torches related to manufacturing and construction activities that emit HAP metals and not directly related to plant maintenance, upkeep and repair or maintenance shop activities;
- (14) ____ Equipment for washing or drying products fabricated from metal or glass, provided that no VOC is used in the process and that no oil or solid fuel is burned;
- (15) ____ Containers, reservoirs, or tanks used exclusively for electrolytic plating work, or electrolytic polishing, or electrolytic stripping of brass, bronze, cadmium, copper, iron, lead, nickel, tin, zinc, and precious metals;
- (16) Containers, reservoirs, or tanks used exclusively for:
- (a) ____ Dipping operations for applying coatings of natural or synthetic resins that contain no VOC;
 - (b) ____ Dipping operations for coating objects with oils, waxes, or greases, and where no VOC is used;
 - (c) ____ Storage of butane, propane, or liquefied petroleum, or natural gas;
 - (d) No. ____ Storage of lubricating oils;
 - (e) No. ____ Unheated storage of VOC with an initial boiling point of 300 °F (
 - (f) No. ____ Storage of Numbers 1, 2, 4, 5, and 6 fuel oil and aviation jet engine fuel,
 - (g) No. ____ Storage of motor vehicle gasoline and having individual tank capacities of 2,000 gallons (7.6 cubic meters) or less;
 - (h) No. ____ The storage of VOC normally used as solvents, diluents, thinners, inks, colorants, paints, lacquers, enamels, varnishes, liquid resins, or other surface coatings and having individual capacities of 2,000 gallons (7.6 cubic meters) or less;
- (17) ____ Gaseous fuel-fired or electrically heated furnaces for heat treating glass or metals, the use of which does not involve molten materials;
- (18) Crucible furnaces, pot furnaces, or induction furnaces, with individual capacities of 1,000 pounds (454 kilograms) or less each, in which no sweating or distilling is conducted, or any fluxing is conducted using chloride, fluoride,

or ammonium compounds, and from which only the following metals are poured or in which only the following metals are held in a molten state:

- (a) ____ Aluminum or any alloy containing over 50 percent aluminum, if no gaseous chloride compounds, chlorine, aluminum chloride, or aluminum fluoride is used;
 - (b) ____ Magnesium or any alloy containing over 50 percent magnesium;
 - (c) ____ Lead or any alloy containing over 50 percent lead;
 - (d) ____ Tin or any alloy containing over 50 percent tin;
 - (e) ____ Zinc or any alloy containing over 50 percent zinc;
 - (f) ____ Copper;
 - (g) ____ Precious metals;
- (19) ____ Charbroilers and pit barbecues as defined in COMAR 26.11.18.01 with a total cooking area of 5 square feet (0.46 square meter) or less;
- (20) ____ First aid and emergency medical care provided at the facility, including related activities such as sterilization and medicine preparation used in support of a manufacturing or production process;
- (21) ____ Certain recreational equipment and activities, such as fireplaces, barbecue pits and cookers, fireworks displays, and kerosene fuel use;
- (22) ____ Potable water treatment equipment, not including air stripping equipment;
- (23) ____ Non-contact water (i.e., water that has not been in direct contact with process fluids) cooling towers except as regulated under Section 112 of the Clean Air Act;
- (24) ____ Firing and testing of military weapons and explosives;
- (25) ____ Emissions resulting from the use of explosives for blasting at quarrying operations and from the required disposal of boxes used to ship the explosive;
- (26) ____ Comfort air conditioning subject to requirements of Title VI of the Clean Air Act;
- (27) ____ Grain, metal, or mineral extrusion presses;

- (28) _____ Breweries with an annual beer production less than 60,000 barrels;
- (29) _____ Natural draft hoods or natural draft ventilators that exhaust air pollutants into the ambient air from manufacturing/industrial or commercial processes;
- (30) _____ Laboratory fume hoods and vents;
- (31) No. _____ Sheet-fed letter or lithographic printing press(es) with a cylinder width of less than 18 inches;

For the following, attach additional pages as necessary:

- (32) any other emissions unit, not listed in this section, with a potential to emit less than the "de minimus" levels listed in COMAR 26.11.02.10X (list and describe units):

No. _____

No. _____

No. _____

No. _____

No. _____

- (33) any other emissions unit at the facility which is not subject to an applicable requirement of the Clean Air Act (list and describe):

No. _____

No. _____

No. _____